

**APPENDIX****Sent to Governor**

(July 20, 1977)

**S.B. 1**  
**S.C.R. 4**  
**S.C.R. 5****Sent to Comptroller**

(July 19, 1977)

**S.B. 1****SEVENTH DAY**

(Thursday, July 21, 1977)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present: Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Meier, Mengden, Moore, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

Absent-excused: Adams, Mauzy, McKnight.

A quorum was announced present.

The Reverend Henry F. Bourgeois, C.S.C., St. Mary's Cathedral, Austin, Texas, offered the invocation as follows:

Almighty and ever-living God, Father of all creatures, time and space, look upon us here present, at this moment, in this hall of government. This is a time we dedicate to You prayerfully seeking Your guidance and help.

From You all authority comes. In us much authority, responsibility and trust has been placed. We ask You today for all the virtues we need to fulfill our obligations to the best of our abilities: we ask for wisdom, courage, honesty, compassion, trust. But above all, we ask for love; love of God above all and love of neighbor as ourselves. This command came from Your own beloved Son in whom You are well pleased.

Love is ever aware of the other person. And so, heavenly Father we ask that in our deliberations this virtue be most important. May we always search for the greater good for the people of our State with peace and justice ever as our goal.

As we pledge allegiance to our country, may we at this moment pledge ourselves to the duties of our office in State affairs with a continual confidence in Your assistance.

To You we make this prayer, through Christ, Your Son and Our Lord. AMEN.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

### LEAVES OF ABSENCE

Senator Mauzy was granted leave of absence for today on account of official state business on motion of Senator Schwartz.

Senator Adams was granted leave of absence for today on account of important business on motion of Senator Jones of Taylor.

Senator McKnight was granted leave of absence for today on account of important business on motion of Senator Creighton.

### MESSAGE FROM THE HOUSE

House Chamber  
July 21, 1977

Honorable William P. Hobby  
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H.B. No. 11, Relating to participation in the National Flood Insurance Program; amending Section 9, Flood Control and Insurance Act (Article 8280-13, Vernon's Texas Civil Statutes) and Section 16.319, Water Code.

S.B. 11, Relating to assets and liabilities of an abolished state agency or advisory committee; amending Subsections (c), (e), and (f), Section 1.17, Senate Bill No. 54, Acts of the 65th Legislature, Regular Session, 1977.

H.C.R. No. 19, In memory of the Honorable Renne Allred, Jr., former state district judge.

Respectfully submitted,  
BETTY MURRAY, Chief Clerk  
House of Representatives

**REPORTS OF STANDING COMMITTEES**

Senator Aikin submitted the following report for the Committee on Finance:

**S.J.R. 4**

Senator Jones of Harris, Vice-Chairman, submitted the following report for the Committee on Administration:

**S.C.R. 9**

**S.C.R. 12 (Amended)**

**BILL AND RESOLUTION SIGNED**

The President announced the signing in the presence of the Senate after the caption had been read, the following enrolled bill and resolution:

**S.C.R. 10**

**S.B. 6**

**HOUSE BILL ON FIRST READING**

The following bill received from the House, was read the first time and referred to the Committee indicated:

**H.B. 11, To Committee on Economic Development.**

**COMMUNICATION FROM LIEUTENANT GOVERNOR**

The following Communication from the Lieutenant Governor was read and was filed with the Secretary of the Senate:

July 21, 1977

The Honorable Bill Clayton  
Speaker of the House of Representatives

The Honorable Mark White  
Secretary of State

The Honorable Betty King  
Secretary of the Senate

Supplementing my letter of July 20, I am designating terms for the senators named under SB 54, 65th RS (Sunset Act) as follows:

Senators Meier and Snelson are appointed for two-year terms.

Senators Doggett and Schwartz are appointed for four-year terms.

Sincerely,

William P. Hobby

**SENATE RESOLUTION 45**

Senator Schwartz offered the following resolution:

WHEREAS, It is with great pleasure that the Members of the Texas Senate pause on this twenty-first day of July, 1977, to note the birthday of our distinguished colleague and friend from the Seventh Senatorial District of Texas; and

WHEREAS, This day marks the forty-third anniversary of the birth of the Honorable Gene Jones; and

WHEREAS, Senator Jones's presence and contributions in the Senate have earned him the respect, friendship, and admiration of each member; now, therefore, be it

RESOLVED by the Senate of the State of Texas, 65th Legislature, 1st Called Session, That most sincere greetings and congratulations be extended to our friend and colleague Gene Jones on this his forty-third birthday; and, be it further

RESOLVED, That this Resolution be presented to Gene as a token of the best wishes of the Senate for many more happy, healthy, and productive years of continued outstanding service to his district and the people of Texas.

The resolution was read and was adopted.

On motion of Senator Brooks and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereto.

**SENATE RESOLUTION 35 ON SECOND READING**

The President laid before the Senate on its second reading:

**S.R. 35**, Directing Committee on Human Resources to study, during interim, existing problems in nursing homes and develop possible legislation to solve problems.

The resolution was read second time and was adopted.

**SENATE RULE 103 SUSPENDED**

On motion of Senator Creighton and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Economic Development might consider **H.B. 11** today.

**SENATE CONCURRENT RESOLUTION 9 ON SECOND READING**

Senator Traeger offered the following resolution:

**S.C.R. 9**, Granting C. Woodrow Deal permission to sue the State of Texas.

The resolution was read.

On motion of Senator Traeger and by unanimous consent, the resolution was considered immediately and was adopted.

**ECONOMIC DEVELOPMENT COMMITTEE  
GRANTED PERMISSION TO MEET**

On motion of Senator Creighton and by unanimous consent, the Committee on Economic Development was granted permission to meet while the Senate was in session.

**AT EASE**

The President announced the Senate at 11:02 o'clock a.m. would Stand At Ease Subject to Call of the Chair.

**IN LEGISLATIVE SESSION**

The Senate met at 11:17 o'clock a.m. and was called to order as In Legislative Session by the President.

**REPORT OF STANDING COMMITTEE**

By unanimous consent, Senator Creighton submitted the following report for the Committee on Economic Development:

**H.B. 11 (Amended)****HOUSE BILL 11 ON SECOND READING**

On motion of Senator Traeger and by unanimous consent, Senate Rules 12, 68, and 74 were suspended to place on its second reading and passage to third reading:

**H.B. 11**, Relating to participation in the National Flood Insurance Program; amending Section 9, Flood Control and Insurance Act (Article 8280-13, Vernon's Texas Civil Statutes) and Section 16.319, Water Code.

The bill was read second time.

Senator Traeger offered the following committee amendment to the bill:

Amend Sec. 2 of HB 11 to read as follows:

Sec. 2. The governing body of any political subdivision as defined in the Flood Control and Insurance Act is hereby authorized and empowered to ratify, confirm, and validate, in whole or in part, any proceedings or actions previously taken by the political subdivision with respect to participation in and compliance with the National Flood Insurance Program under the Flood Control and Insurance Act, even though those proceedings or actions may not have been in accordance with statutory provisions.

The committee amendment was read and was adopted.

Senator Traeger offered the following committee amendment to the bill:

Amend the quoted Section 9 of Section 1 of **H.B. 11** by striking the word "and" at line 11 and the word "endeavor" at line 12 of the bill.

The committee amendment was read and was adopted.

Senator Traeger offered the following committee amendment to the bill:

Amend the quoted Section 16.319 of Section 3 of H.B. 11 by substituting the word "QUALIFICATION" for the words "TIME LIMITATION" at line 13, page 2 of the bill, and by striking the words "and endeavor" at line 15, page 2 of the bill.

The committee amendment was read and was adopted.

On motion of Senator Traeger and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

(Senator Aikin in Chair)

### HOUSE BILL 11 ON THIRD READING

Senator Traeger moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.B. 11 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Adams, Mauzy, McKnight.

(President in Chair)

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 2.

Yeas: Aikin, Andujar, Braecklein, Brooks, Clower, Doggett, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Mengden, Moore, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Creighton, Meier.

Absent-excused: Adams, Mauzy, McKnight.

### SENATE CONCURRENT RESOLUTION 13

Senator Traeger offered the following resolution:

S.C.R. 13, Authorizing the 65th Legislature to contract with the Legislative Information System of Texas to provide an interactive budgeting and monitoring system.

The resolution was read.

On motion of Senator Traeger and by unanimous consent, the resolution was considered immediately and was adopted.

### **SENATE RULE 103 SUSPENDED**

On motion of Senator Aikin and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Finance might consider the following resolutions today:

**S.J.R. 1**

**S.J.R. 2**

### **RECESS**

On motion of Senator Aikin the Senate at 11:32 o'clock a.m. took recess until 3:00 o'clock p.m. today.

### **AFTER RECESS**

The Senate met at 3:00 o'clock p.m. and was called to order by the President.

### **REPORT OF STANDING COMMITTEE**

By unanimous consent, Senator Aikin submitted the following report for the Committee on Finance:

**C.S.S.J.R. 1 (Read first time)**

### **LEAVE OF ABSENCE**

Senator Ogg was granted leave of absence for the remainder of today on account of important business on motion of Senator Williams.

### **SENATOR ANNOUNCED PRESENT**

Senator McKnight who had previously been recorded as "Absent-Excused" was announced "Present".

### **SENATE CONCURRENT RESOLUTION 14**

Senator Creighton offered the following resolution:

**S.C.R. 14**, Requesting the House to return **H.B. 11** to the Senate for further consideration.

The resolution was read.

On motion of Senator Creighton and by unanimous consent, the resolution was considered immediately and was adopted.

### **MESSAGE FROM THE HOUSE**

House Chamber  
July 21, 1977

Honorable William P. Hobby  
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. No. 15, Sine die, July 21, 1977 at 6:00 p.m.

**C.S.S.B. 9**, Relating to the regulation of nursing and convalescent homes and to the protection of elderly persons; providing penalties; amending Sections 4, 7, 9, 10, 11, and 12 of, and adding Section 6A to, Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4442c, Vernon's Texas Civil Statutes); amending Title 20A, Revised Civil Statutes of Texas, 1925, as amended by adding Article 695j-2; amending Subsection (b) and adding Subsections (c) and (d) to Section 22.01, Penal Code. (With amendments)

S.C.R. No. 9, Resolving that C. Woodrow Deal is granted permission to sue the State of Texas and the Texas Department of Health.

S.C.R. No. 11, Congratulating Mrs. Carolyn Harrell.

S.C.R. No. 13, Authorizing to contract with the Legislative Information System of Texas and providing an interactive budgeting and monitoring system.

H.C.R. No. 21, Urging the Parks and Wildlife Commission to exercise its authority in utilizing all available resources to eliminate hydrilla from Texas waters.

H.C.R. No. 20, Congratulatory Resolution on the 46th Annual Meeting of the Congreso Nacional de Sociedades Mutualistas de la Republica Mexicana.

H.C.R. No. 18, Granting Don Lee and Tim Green permission to sue the state.

H.C.R. No. 13, Whereas, The National Institute for Occupational Safety and Health — National Institutes of Health, hereinafter referred to as NIOSH, is seeking a larger and more appropriate physical accommodations for its research and technical support functions than those now occupied in Cincinnati, Ohio;...

H.C.R. No. 16, Directing the Coordinating Board to establish and implement a uniform calendar for all state colleges and universities.

H.C.R. No. 8, Commending Law Focused Education, Inc.

Respectfully submitted,  
BETTY MURRAY, Chief Clerk  
House of Representatives

#### HOUSE CONCURRENT RESOLUTION 16

The President laid before the Senate the following resolution:

**H.C.R. 16**, Directing the Coordinating Board to establish and implement a uniform calendar for all state colleges and universities.



The resolution was read.

On motion of Senator Snelson and by unanimous consent, the resolution was considered immediately and was adopted.

#### **HOUSE CONCURRENT RESOLUTION 20**

The President laid before the Senate the following resolution:

**H.C.R. 20**, Congratulatory Resolution on the 46th Annual Meeting of the Congreso Nacional de Sociedades Mutualistas de la Republica Mexicana.

The resolution was read.

On motion of Senator Longoria and by unanimous consent, the resolution was considered immediately and was adopted.

#### **HOUSE CONCURRENT RESOLUTION 18**

The President laid before the Senate the following resolution:

**H.C.R. 18**, Granting Don Lee and Tim Green permission to sue the state.

The resolution was read.

On motion of Senator Longoria and by unanimous consent, the resolution was considered immediately and was adopted.

#### **HOUSE CONCURRENT RESOLUTION 8**

The President laid before the Senate the following resolution:

**H.C.R. 8**, Commending Law Focused Education, Inc.

The resolution was read.

On motion of Senator Farabee and by unanimous consent, the resolution was considered immediately and was adopted.

#### **BILL SIGNED**

The President announced the signing in the presence of the Senate after the caption had been read, the following enrolled bill:

**S.B. 11**

#### **MESSAGE FROM THE HOUSE**

House Chamber  
July 21, 1977

Honorable William P. Hobby  
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

**S.C.R. 14, Recalling House Bill No. 11 for further consideration.**

**Pursuant to the provisions of S.C.R. 14, H.B. 11 was returned to the Senate.**

**Respectfully submitted,  
BETTY MURRAY, Chief Clerk  
House of Representatives**

**VOTE ON FINAL PASSAGE OF  
HOUSE BILL 11 RECONSIDERED**

**On motion of Senator Traeger and by unanimous consent, the vote by which H.B. 11 was finally passed was reconsidered.**

**Question - Shall H.B. 11 be finally passed?**

**VOTE ON PASSAGE TO THIRD READING  
OF HOUSE BILL 11 RECONSIDERED**

**On motion of Senator Traeger and by unanimous consent, the vote by which H.B. 11 was passed to third reading was reconsidered.**

**Question - Shall H.B. 11 be passed to third reading?**

**VOTE ON ADOPTION OF AMENDMENT TO  
HOUSE BILL 11 RECONSIDERED**

**On motion of Senator Traeger and by unanimous consent, the vote by which Committee Amendment No. 1 to H.B. 11 was adopted was reconsidered.**

**Question - Shall the committee amendment be adopted?**

**Senator Jones of Taylor offered the following substitute for the pending committee amendment:**

**Amend H.B. No. 11 by striking Section 2 and substituting the following:**

**Sec. 2. All proceedings and actions of any political subdivision as defined in the Flood Control and Insurance Act with respect to participation in and compliance with the National Flood Insurance Program under the Flood Control and Insurance Act, are in all things and all respects ratified, confirmed, approved, and validated even though these proceedings and actions may not have occurred within the time limit provided in the Flood Control and Insurance Act; provided, however, that any proceeding or action taken under the Flood Control and Insurance Act by a political subdivision which took action to qualify under Section 9 of that Act after June 30, 1970, and before the effective date of this Act shall expire on the 60th day after the effective date of this Act unless the proceeding or action is reenacted by the governing body of the political subdivision after the effective date of this Act and before the 60th day after the effective date of this Act.**

The substitute for the pending committee amendment was read and was adopted.

The committee amendment as substituted was then adopted.

### **RECORD OF VOTES**

Senators Doggett and Patman asked to be recorded as voting "Nay" on the adoption of the committee amendment as substituted.

On motion of Senator Traeger and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was again passed to third reading.

### **HOUSE BILL 11 ON THIRD READING**

Senator Traeger moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.B. 11 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 2.

Yeas: Aikin, Andujar, Braecklein, Brooks, Clower, Doggett, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Mengden, Moore, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Creighton, Meier.

Absent-excused: Adams, Mauzy, McKnight, Ogg.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was again read third time and passed by the following vote: Yeas 25, Nays 2.

Yeas: Aikin, Andujar, Braecklein, Brooks, Clower, Doggett, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Mengden, Moore, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Creighton, Meier.

Absent-excused: Adams, Mauzy, McKnight, Ogg.

### **SENATE RULE 74a SUSPENDED**

On motion of Senator Brooks and by unanimous consent, Senate Rule 74a was suspended as it relates to House amendments to S.B. 9.

**SENATE BILL 9 WITH HOUSE AMENDMENTS**

Senator Brooks called S.B. 9 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment No. 1

Substitute the following for S.B. No. 9:

**A BILL TO BE ENTITLED****AN ACT**

relating to the regulation of nursing and convalescent homes and to the protection of elderly persons; providing penalties; amending Sections 4, 7, 9, 10, 11, and 12 of, and adding Section 6A to, Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4442c, Vernon's Texas Civil Statutes); amending Title 20A, Revised Civil Statutes of Texas, 1925, as amended by adding Article 695j-2; amending Subsection (b) and adding Subsections (c) and (d) to Section 22.01, Penal Code.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**

Section 1. Section 4, Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4442c, Vernon's Texas Civil Statutes), is amended to read as follows:

"Sec. 4. APPLICATION FOR LICENSE. An application for a license shall be made to the Licensing Agency upon forms provided by it and contain such information as the Licensing Agency requires which may include affirmative evidence of ability to comply with reasonable standards, rules and regulations as are lawfully prescribed hereunder. The application shall be accompanied by a license fee which shall be in the sum of Twenty-five Dollars (\$25) plus One Dollar (\$1) for each unit of capacity or bed space for which a license is sought. Such license fee shall be paid annually in said amount with each application for renewal of the institution's license. All license fees provided for herein shall be waived for the State of Texas and its departments, divisions, boards and agencies. All license fees collected shall be deposited with the State Treasury to the credit of the Licensing Agency and said license fees are hereby appropriated to said Agency for its use in the administration and enforcement of this Act.

"Upon receipt of an application for a license the Licensing Agency shall issue a license if upon inspection and investigation it finds that the applicant and facilities meet the requirements established under this law. A license, unless suspended or revoked, shall be renewed annually after an inspection and upon tender of the annual license fee together with the filing by the licensee and approval by the Licensing Agency of an annual report upon such date and containing such information in such form as the Licensing Agency prescribes by regulation. Such license shall be issued only for the premises and persons or governmental units and for the maximum number of beds named in the application and shall not be transferable or assignable. Any approved increase in the bed space shall be subject to an additional fee. ~~[Any increase in the bed space above the maximum approved is subject to approval by the Licensing Agency and subject to additional fee.]~~ Any violation of these provisions shall be guilty of a misdemeanor and upon conviction shall be subject to the penalties provided for in Section 12 of this Act."

Sec. 2. Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4442c, Vernon's Texas Civil Statutes), is amended by adding Section 6B to read as follows:

**"Sec. 6B. EMERGENCY SUSPENSION AND CLOSING ORDER. (a)**

If the Licensing Agency finds an institution operating in violation of the standards prescribed by this Act and the violations create an immediate threat to the health and safety of a resident in the institution, the Licensing Agency shall suspend the license or order an immediate closing of the institution or part of an institution; and the Licensing Agency shall by rule provide for patient placement during the period of suspension to assure the health and safety to the patients in said institution.

"(b) The order suspending a license under Subsection (a) of this section is immediately effective upon written notice to the license holder or on the date specified on the order.

"(c) The order suspending the license and ordering an institution or part of an institution closed is valid for 10 days after the effective date."

Sec. 3. Section 7, Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4442c, Vernon's Texas Civil Statutes), is amended to read as follows:

**"Sec. 7. RULES, REGULATIONS AND ENFORCEMENTS.** The Licensing Agency is authorized to adopt, amend, promulgate, publish and enforce minimum standards in relation to:

"(a) Construction of the home or institution, including plumbing, heating, lighting, ventilation and other housing conditions, which shall insure the health, safety and comfort of residents and protection from fire hazard;

"(b) Regulate the number and qualification of all personnel, including management and nursing personnel, having responsibility for any part of the care given to residents and establish requirements for in-service education of all employees who have any contact with residents;

"(c) All sanitary and related conditions within the nursing home and its surroundings, including water supply, sewage disposal, food handling and general hygiene, which shall insure the health, safety and comfort of the residents;

"(d) Diet related to the needs of each resident and based upon good nutritional practice or on recommendations which may be made by the physician attending the resident;

"(e) Equipment essential to the health and welfare of the residents;

"(f) All inspections shall be unannounced, and a minimum of one per year shall be mandatory; further inspections may be required by the Licensing Agency;

"(g) The use and administration of medications in conformity with applicable law and rules and regulations on the use and administration of medications;

"(h) Grading each home or institution so as to recognize those homes or institutions that go beyond the minimum level of services and personnel, as established by the agency and such attained grade shall be prominently displayed for public view and as incentive to attain the superior grade, allow each home or institution to advertise such grade.

"The Licensing Agency is further authorized to provide for advice to and coordination of its personnel and facilities with any local agency of a city or county where such city or county shall see fit to supplement the state program with further regulations required to meet local conditions."

Sec. 4. Section 9, Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4442c, Vernon's Texas Civil Statutes), is amended to read as follows:

**"Sec. 9. INSPECTIONS AND CONSULTATIONS.** The Licensing Agency shall make or cause to be made such inspections and investigations as it deems necessary. The licensing agency shall hold at least one open hearing a year in

each licensed institution to hear any complaints of substandard care or licensing violations. The licensing agency shall notify the institution, the designated closest living relative or legal guardian of the institution's residents, and other appropriate State or Federal agencies that work with the institution of the time, place, and date of the hearing. The licensing agency may exclude an institution's administrators and personnel from the hearing. The licensing agency shall notify an institution of any complaints received at the hearing. The licensing agency shall provide a summary of the complaints without identifying the source thereof to the licensed institution. The licensing agency shall determine and implement a mechanism to notify confidentially the complainant of the results of the investigation which followed the complaint. It is further provided that the Licensing Agency shall wherever possible utilize the services and consultation of other state and local agencies in carrying out its responsibility under the provisions of this Act and shall use wherever possible the facilities of the State Department of Public Welfare especially in setting up and maintaining standards with reference to the humane treatment of the individuals in the institutions.

"The Licensing Agency is hereby given the authority to cooperate with local public health officials of any county or incorporated city in carrying out the provisions of this Act and may in its discretion delegate to said local authorities the power to make the inspections and recommendations to the Licensing Agency in accordance with the terms and provisions of this Act."

Sec. 5. Section 11, Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4442c, Vernon's Texas Civil Statutes), is amended to read as follows:

**"Sec. 11. INJUNCTION AND TEMPORARY RESTRAINING ORDER.**

(a) When the Licensing Agency finds that a person's violations of the standards prescribed by this Act create an immediate threat to the health and safety of the residents of an institution, the Licensing Agency may petition the district court for a temporary restraining order to restrain the person from continuing the violations.

"(b) When a person violates the licensing requirements or the standards prescribed by this Act, the Licensing Agency may petition the district court for an injunction to prohibit a person from continuing the violation or to restrain or prevent the establishment, conduct, management, or operation of an institution without a license under this Act. A suit for a temporary restraining order or other injunctive relief must be brought in the judicial district that includes the county of the alleged violation.

"(c) On application for injunctive relief and a finding that a person is violating the licensing requirements or standards prescribed by this Act, the district court shall grant the injunctive relief the facts may warrant.

"(d) At the request of the Licensing Agency, the attorney general shall institute the conduct the suits authorized in Subsections (a) and (b) of this section in the name of the State of Texas.

~~"[Notwithstanding the existence or pursuit of any other remedy, the Licensing Agency may in the manner provided by law upon the advice of the County or District Attorney or upon their failure or refusal to act the Attorney General, who is representing the Licensing Agency in the proceedings, maintain an action in the name of the State for injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, management, or operation of an institution without a license under this law.]"~~

Sec. 6. Section 12, Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4442c, Vernon's Texas Civil Statutes), is amended to read as follows:

**"Sec. 12. PENALTIES. (a)** Any person establishing, conducting, managing, or operating any institution without a license under this law shall be

guilty of a misdemeanor and upon conviction shall be fined not more than Two Hundred Dollars (\$200) for the first offense and not more than One Hundred Dollars (\$100) for each subsequent offense, and each day of a continuing violation after conviction shall be considered a separate offense.

"(b) A person who violates this Act or who fails to comply with a rule or regulation authorized by this Act determined by the Licensing Agency to threaten the health and safety of the patient is subject to a civil penalty of not less than \$100 nor more than \$500 for each act of violation, and each day of a continuing violation constitutes a separate ground of recovery."

Sec. 7. (a) The Department of Public Welfare shall contract those medical functions and quality of care functions, including quality assurance and consultation, level of care determination, period medical review, utilization review, and related program support, pertaining to long-term care regulation and services performed by the Medical Assistance Unit under the authority of the State Department of Public Welfare to the Texas Department of Health. The contract shall include all provisions necessary to ensure compliance with federal law and regulations, including submission of reports and other information requested by the State Department of Public Welfare, for purposes of Title XIX of the Social Security Act. After January 1, 1978, if the Governor of Texas makes a finding that the public interest will be served, he shall direct the Department of Public Welfare to request a waiver from the Department of Health, Education, and Welfare to allow the Texas Department of Health to perform those medical and quality of care functions pertaining to long-term care regulation and services performed by the Medical Assistance Units of the State Department of Public Welfare.

(b) If a contract is executed or a waiver is obtained, the funds, personnel, equipment, and central office supporting personnel relating to the functions described in Subsection (a) are to be included in the contract between the State Department of Public Welfare and the Texas Department of Health or transferred by the waiver.

(c) The functions of eligibility determination, health related social services, vendor drug program, and provider payments related to long-term care are not included in the programs to be contracted under this section.

Sec. 8. Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4442c, Vernon's Texas Civil Statutes), is amended by adding Section 16 to read as follows:

"Section 16. REPORTS OF ABUSE AND NEGLECT. (a) Persons required to report.

"(1) Any person or any owner or employee of a nursing home having cause to believe that a nursing home resident's physical or mental health or welfare has been or may be adversely affected by abuse or neglect shall report in accordance with Section 16(b).

"(2) Each nursing home employee shall be required to sign a statement that he or she realizes his or her criminal liability for failure to report such abuses as a condition of employment by the nursing home.

"(b) Contents of Report. (1) Nonaccusatory reports reflecting the reporting person's belief that a nursing home resident has been or will be abused or neglected or has died of abuse or neglect shall be made to:

"(a) the licensing agency; or

"(b) any local or state law enforcement agency.

"(2) All reports must contain the name and address of the nursing home resident, the name and address of the person responsible for the care of the resident, if available, and any other relevant information.

"(3) All reports received by any local or state law enforcement agency shall be referred to the licensing agency or to the agency designated by the court to be responsible for the protection of the nursing home resident.

"(4) An oral report shall be made immediately on learning of the abuse or neglect and a written report shall be made within five days to the same agency. Anonymous reports, while not encouraged, will be received and acted on in the same manner as acknowledged reports. Anonymous reports about a specific individual, accusing the individual of abuse or neglect, need not be investigated.

"(c) Immunities. Any person reporting pursuant to this chapter is immune from liability, civil or criminal, that might otherwise be incurred or imposed. Immunity extends to participation in any judicial proceeding resulting from the report. Persons reporting in bad faith or with malice are not protected by this section.

"(d) Privileged Communications. In any proceeding regarding the abuse or neglect of a nursing home resident or the cause of any abuse or neglect, evidence may not be excluded on the ground of privileged communication except in the case of communications between attorney and client.

"(e) Investigation and Report of Receiving Agency. (1) The licensing agency or the agency designated by the court to be responsible for the protection of nursing home residents shall make a thorough investigation promptly after receiving either the oral or written report. The primary purpose of the investigation shall be the protection of the nursing home resident.

"(2) In the investigation the department or agency shall determine:

"(a) the nature, extent, and cause of the abuse, or neglect;

"(b) the identity of the person responsible for the abuse or neglect;

"(c) the names and conditions of the other nursing home residents in the nursing home;

"(d) an evaluation of the persons responsible for the care of the nursing home residents;

"(e) the adequacy of the nursing home environment; and

"(f) all other pertinent data.

"(3) The investigation shall include a visit to the resident's nursing home and an interview with the subject nursing home resident. If the admission to the nursing home, or any place where the nursing home resident may be, cannot be obtained, the district court, upon cause shown, shall order the persons responsible for the care of the nursing home resident, or the person in charge of any place where the nursing home resident may be, to allow entrance for the interview and investigation.

"(4) If, before the investigation is complete, the opinion of the licensing agency is that immediate removal is necessary to protect the nursing home resident from further abuse or neglect, the licensing agency shall file a petition for temporary care and protection of the nursing home resident.

"(5) The agency designated by the court to be responsible for the protection of the nursing home resident or the Department shall make a complete written report of the investigation. The report, together with its recommendations, shall be submitted to the district attorney and the appropriate law enforcement agency.

"(f) Central Registry. The licensing agency shall establish and maintain in Austin, Texas, a central registry of reported cases of nursing home resident abuse or neglect. The department may adopt rules and regulations as are necessary in carrying out the provisions of this section. The rules shall provide for cooperation with hospitals and clinics in the exchange of these reports.

"(g) Failure to Report; Penalty. (a) A person commits an offense if the person has cause to believe that a nursing home resident's physical or mental health or welfare has been or may be further adversely affected by abuse or neglect and knowingly fails to report in accordance with Subsection (a)(1).

"(2) An offense under this section is a Class A misdemeanor.

"(h) Confidentiality. The reports, records, and working papers used or developed in an investigation made under this chapter are confidential and may be



disclosed only for purposes consistent with regulations adopted by the investigating agency."

Sec. 9. Section 13, Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4442c, Vernon's Texas Civil Statutes) is amended to read as follows:

"Section 13. Information received by the Licensing Agency, through filed reports, inspection, or as otherwise authorized under this law shall not be disclosed publicly, except as authorized elsewhere in this Act, in such manner as to identify individuals ~~(or institutions as defined herein)~~ except in a proceeding involving the question of licensure."

Sec. 10. Title 20A, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding Article 695j-2 to read as follows:

"Article 695j-2. PROTECTIVE SERVICES FOR THE ELDERLY.

"Sec. 1. PURPOSE. It is the purpose of this article to facilitate the provision of protective services for elderly persons residing in the state who need these services.

"Sec. 2. DEFINITIONS. In this article:

"(1) 'Elderly person' means a person who is 65 years of age or older.

"(2) 'Protective services' means services which are necessary to prevent abuse, neglect, or financial exploitation or to maintain the health or safety of an elderly person, including investigation, determination of needs, counseling, arrangement for living accommodations in the community or in an institution, location of resources in the community to help provide medical or legal services, arrangement for guardianship or commitment, referral services, the direct provision of medical or other care, or similar services.

"(3) 'Caretaker' means a person who has assumed the responsibility of providing for or caring for an elderly person.

"(4) 'An elderly person who lacks capacity to consent to services' means an elderly person who because of mental or physical impairment is incapable of understanding the nature of the services offered and agreeing to receive or rejecting protective services.

"(5) 'Department' means the State Department of Public Welfare.

"Sec. 3. REPORTS. (a) Any person having cause to believe that an elderly person is suffering from abuse, neglect, or financial exploitation shall make a report to the State Department of Public Welfare.

"(b) A report under Subsection (a) of this section must contain the name and address of the elderly person, the name and address of the caretaker, if any, and other pertinent information. An oral report may be made to the department on learning of the need for protective services. Anonymous reports shall be received and investigated. The department employee who receives an oral report shall make a written report within five days.

"Sec. 4. IMMUNITIES. Any person reporting pursuant to this article is immune from liability, civil or criminal, that might otherwise be incurred or imposed. Immunity extends to participation in any judicial proceeding resulting from the report. Persons reporting in bad faith or with malice are not protected by this section. Any employee of the Department who acts in bad faith or with malice in seeking protective services under this Act shall be subject to immediate termination of employment.

"Sec. 5. INVESTIGATION. (a) On receiving a report under Section 3 of this article, the department shall begin an investigation within 24 hours.

"(b) In the investigation the department shall determine:

"(1) whether the person needs protective services;

"(2) what services are needed;

"(3) whether services are available from the department or in the community and how they can be provided;

"(4) whether the person would be capable of obtaining services for himself or herself and could bear the cost or would be eligible for services from the department;

"(5) whether a caretaker would be willing to provide services or would agree to their provision;

"(6) whether the elderly person desires the services; and

"(7) other pertinent data.

"(c) The department's investigation shall include a visit to the elderly person's home and consultation with persons thought to have knowledge of the circumstances.

"(d) The department shall prepare and keep on file a complete written report of each investigation.

"(e) If the investigation reveals that the elderly person has been physically abused by another person, a copy of the report of the investigation shall be submitted to the appropriate law enforcement agency.

"(f) If the elderly person has a guardian, a copy of the report shall be filed with the court to which the guardian is accountable.

"Sec. 6. PROTECTIVE SERVICES PROVIDED WITH CONSENT. If, as a result of its investigation the department determines that an elderly person needs protective services, the elderly person or his or her guardian consents to receive such services, and the person is eligible to receive services under a program of the department or from other sources in the community, the department shall arrange for the provision of available protective services for the elderly person subject to the restriction that the least restrictive alternative suitable to the circumstances of the elderly person should be arranged.

"Sec. 7. EMERGENCY ORDER FOR PROTECTIVE SERVICES. (a) If the department determines that an elderly person is suffering from abuse or neglect presenting a risk of death or serious harm, that the person lacks capacity to consent to receive protective services, and that no consent can be obtained, the department may petition the district court in the county in which the elderly person resides for an emergency order authorizing protective services.

"(b) The petition shall be verified and shall include the name, age, and address of the elderly person who needs protective services, the nature of the abuse or neglect, the services needed, a medical report signed by a medical doctor that the person is suffering from abuse or neglect presenting an immediate threat to life and stating that the person is physically or mentally incapable of consenting to services, and the information relating to the department's attempts to obtain consent.

"(c) On finding that there is reasonable cause to believe that abuse or neglect presents a risk of death or serious harm for the elderly person and that the elderly person lacks capacity to consent to services, the court may order removal of the elderly person to safer surroundings, authorize medical treatment, and order such other available services as are necessary to remove conditions creating the risk of death or serious harm. The court shall appoint an attorney ad litem to represent the interests of the elderly person at the first and any subsequent hearings.

"(d) The emergency order expires at the end of 72 hours from the time of the order and may be renewed for 72 hours.

"(e) Any medical facility or physician treating an elderly person pursuant to an emergency order under this article is not liable for any damages arising from the treatment, except those damages resulting from the negligence of the facility or physician.

"Sec. 8. CONTINUED INVOLUNTARY SERVICES. (a) If an elderly person needs or is expected to need protective services for a period longer than the duration of an emergency order for protective services, the person lacks capacity to

consent to services, and no guardian is available to consent for him or her, the department may attempt to (1) locate a suitable person willing to obtain guardianship of the elderly person, (2) obtain guardianship of the person, but not the estate, of the elderly person, or (3) apply for commitment of the elderly person to a state hospital or other appropriate institution. The alternative least restrictive to the elderly person which will adequately serve the elderly person's needs must be sought by the department and ordered by the court.

"(b) In assuming guardianship under this section, the department is required to provide to the elderly person only the services and assistance for which the person is eligible under the department's programs.

"Sec. 9. **CONFIDENTIALITY.** The reports, records, and working papers used or developed in an investigation of the circumstances of an elderly person are confidential and may be disclosed only under regulations adopted by the department or by order of the district court. All such reports, records, and working papers shall be made available to the attorney representing the interest of the elderly person or the elderly person.

"Sec. 10. **REPRESENTATION.** (a) The prosecuting attorney representing the state in criminal cases in the county court shall represent the department in any proceeding brought by the department under this article.

"(b) The court shall appoint an attorney ad litem to represent the elderly person in any proceeding brought by the department under this article. A reasonable fee, as determined by the court, shall be paid to the attorney ad litem funds appropriated to the department.

"Sec. 11. **BOND.** No bond shall be required of the department in any proceeding brought under this article except that, in no event is a guardian of the estate of the elderly person qualified to serve in that capacity until sufficient bond has been entered into in accordance with Section 194 of the Texas Probate Code.

"Sec. 12. **CERTAIN MEDICAL TREATMENT EXCLUDED.** This article does not authorize or require any medical treatment of a person who objects to the treatment on the grounds of adhering to the tenets and practices of a recognized church or denomination that relies solely upon spiritual means through prayer for healing."

Sec. 11. Subsection (b), Section 22.01, Penal Code, is amended to read as follows:

"(b) An offense under Subsection (a)(1) of this section is a Class A misdemeanor unless the offense is committed by the owner or an employee of an institution described in Subsection (a), Section 2, Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953, as amended, or a person providing medical or psychiatric treatment at an institution described in that subsection, and the offense is committed by causing bodily injury to a patient or resident of an institution described in that subsection, in which event the offense is a felony of the third degree ~~under Subsection (a)(2) or (a)(3) of this section, in which event it is a Class C misdemeanor]."~~

Sec. 12. Section 22.01, Penal Code, is amended by adding Subsections (c) and (d) to read as follows:

"(c) An offense under Subsection (a)(2) of this section is a Class C misdemeanor unless the offense is committed by the owner or an employee of an institution described in Subsection (a), Section 2, Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953, as amended, or a person providing medical or psychiatric treatment at an institution described in that subsection, and the offense is committed by threatening a patient or resident of an institution described in that subsection with bodily injury, in which event the offense is a Class B misdemeanor.

"(d) An offense under Subsection (a)(3) of this section

Sec. 13. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Amendment No. 2

Amend C.S.S.B. 9, Section 8 by:

- 1) striking the words "or department" in line 9, page 10;
- 2) striking the words "department or" in line 4, page 11;
- 3) striking the word "department" in line 2, page 12 and substituting the words "licensing agency"; and
- 4) striking the word "department" in line 8, page 12 and substituting the words "licensing agency".

Amendment No. 3

Amend C.S.H.B. No. 9 as follows:

- (1) Strike "period" (line 8, page 8) and substitute "periodic".
- (2) Strike "Units" (line 22, page 8) and substitute "Unit".

Amendment No. 4

Amend CSSB No. 9 by striking Section 10 in its entirety and renumber subsequent sections.

Amendment No. 5

Amend C.S.S.B. 9, by striking section 9 and substituting the following:

Sec. 9. Section 13, Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953, (Article 4442c, Vernon's Texas Civil Statutes), is repealed.

Amendment No. 6

Amend C.S.S.B. 9 by adding a new sentence to subsection (g) on page 4:

"all personnel administering medications must have completed a state-approved training program in medication administration;"

Amendment No. 7

Amend H.B. No. 9 by renumbering Section 3 as Section 4, renumbering the subsequent sections accordingly, and inserting a new Section 3 to read as follows:

Sec. 3. Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4442c, Vernon's Texas Civil Statutes), is amended by adding Section 7A to read as follows:

"Section 7A. LANGUAGE REQUIREMENTS PROHIBITED. No institution may prohibit a resident or employee from communicating in his or her native language with other residents or employees for the purpose of acquiring or providing medical treatment, nursing care, or institutional services."

## Amendment No. 8

Amend C.S.S.B. 9 by adding the following language after the word "neglect" and before the word "shall" on line 15, page 9:

"caused by another person or persons"

and by adding between the word "imposed." and "Immunity" on line 16, page 10, the following language:

"because of the making of the report or reports."

## Amendment No. 9

Amend C.S.S.B. 9 by adding a Subsection (i) on page 4:

"(i) The Licensing Agency shall require one medical examination per patient per year. The details of this examination will be specified by the Licensing Agency."

## Amendment No. 10

Amend C.S.S.B. 9 page 4, beginning line 12 by striking section (f) and inserting the following:

(f) At least one unannounced inspection per year shall be mandatory; further inspections may be required by the Licensing Agency;

## Amendment No. 11

Amend C.S.H.B. No. 9 as follows:

Renumber Section 9 as Section 10, renumber subsequent sections accordingly and insert a new Section 9 to read as follows:

Sec. 9 Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4442c, Vernon's Texas Civil Statutes) is amended to read as follows:

"Section 17. PROHIBITION OF REMUNERATION. (a) no institution may receive remuneration, either monetary or otherwise, from any individual, corporation, company or agency which furnishes services or materials to the institution or its occupants for a fee."

(b) The Licensing Agency may seek the revocation of the license of an institution that violates the prohibition in Subsection (a) of this section."

## Amendment No. 12

Amend C.S.S.B. No. 9 as follows:

Amend Section 3, page 4, line 15, by adding a new Sub Section (g) immediately after SubSection (f) and relettering subsequent Sub Sections accordingly, the new sub section to read as follows:

(g) For at least one unannounced inspection in each year as required by Subsection (f) of this section, the Licensing Agency shall arrange to invite in the

inspection at least one person as a citizen advocate from one of the following groups: American Association of Retired Persons, the Texas Senior Citizen Association, or the Texas Retired Federal Employees, or any other statewide organization for the elderly;

Amendment No. 13

Amend C.S.H.B. 9 by adding the following at the end of line 19 on page 10 to provide the following:

"A person making a bad faith, malicious or reckless report is subject to the Criminal Penalty of a Class A Misdemeanor, in addition to any civil penalties."

The amendments were read.

Senator Brooks moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 25, Nays 1, Present-Not voting 1.

Yeas: Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Hance, Jones of Taylor, Kothmann, Lombardino, Longoria, McKnight, Meier, Mengden, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Harris.

Present-Not voting: Moore.

Absent: Jones of Harris.

Absent-excused: Adams, Mauzy, Ogg.

**SENATE CONCURRENT RESOLUTION 15**

Senator Doggett offered the following resolution:

**S.C.R. 15,** Granting Whitley Company permission to sue the State of Texas.

The resolution was read.

On motion of Senator Doggett and by unanimous consent, the resolution was considered immediately and was adopted.

**HOUSE CONCURRENT RESOLUTION 13**

The President laid before the Senate the following resolution:

**H.C.R. 13,** Directing the secretary of HEW to consider Houston as his choice for the National Institute for Occupational Safety and Health — National Institutes of Health.

The resolution was read.

Senator Brooks offered the following amendment to the resolution:

Amend H.C.R. 13 by striking the word "direct" where it appears in the first resolving clause and substitute in lieu thereof the word "urges".

The amendment was read and was adopted.

On motion of Senator Brooks and by unanimous consent, the resolution as amended was considered immediately and was adopted.

#### **HOUSE CONCURRENT RESOLUTION 21**

The President laid before the Senate the following resolution:

H.C.R. 21, Urging the Parks and Wildlife Commission to exercise its authority in utilizing all available resources to eliminate hydrilla from Texas waters.

The resolution was read.

On motion of Senator Brooks and by unanimous consent, the resolution was considered immediately and was adopted.

#### **HOUSE CONCURRENT RESOLUTION 15**

The President laid before the Senate the following resolution:

H.C.R. 15, Authorizing the First Called Session of the 65th Legislature to adjourn Sine Die on July 21, 1977, at 6:00 o'clock p.m.

The resolution was read.

On motion of Senator Aikin and by unanimous consent, the resolution was considered immediately and was adopted.

#### **RECORD OF VOTES**

Senators Doggett and Patman asked to be recorded as voting "Nay" on the adoption of the resolution.

#### **AT EASE**

The President announced the Senate at 3:55 o'clock p.m. would Stand At Ease Subject to Call of the Chair.

#### **IN LEGISLATIVE SESSION**

The Senate met at 4:22 o'clock p.m. and was called to order as In Legislative Session by the President.

#### **MESSAGE FROM THE HOUSE**

House Chamber  
July 21, 1977

Honorable William P. Hobby  
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

**C.S.S.B. 7**, Relating to authorizing the Governor to determine the need for a public deepwater port if a private facility is not built; the creation, administration, powers and duties of the Texas Deepwater Port Authority; amending Chapter 12 of the Water Code; amending Section 5 of Article 5415i V.A.T.S. ("Texas Deepwater Port Procedures Act"); preserving Texas' claim to its tidelands and coastline; providing for an appropriation; providing for the repayment of that appropriation; providing for severability; and declaring an emergency. (With amendments)

**S.C.R. No. 15**, Granting the Whitley Company permission to sue the State of Texas and the Texas Senate.

All necessary rules suspended, and the House concurred in Senate amendments to HCR No. 13 by a non record vote.

Respectfully submitted,  
**BETTY MURRAY**, Chief Clerk  
House of Representatives

#### **RESOLUTION SIGNED**

The President announced the signing in the presence of the Senate after the caption had been read, the following enrolled resolution:

**H.C.R. 19**

#### **SENATE RULE 74a SUSPENDED**

On motion of Senator Schwartz and by unanimous consent, Senate Rule 74a was suspended as it relates to House amendments to **S.B. 7**.

#### **SENATE BILL 7 WITH HOUSE AMENDMENTS**

Senator Schwartz called **S.B. 7** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment No. 1

Substitute the following for **S.B. No. 7**:

#### **A BILL TO BE ENTITLED**

#### **AN ACT**

relating to deepwater ports and the Texas Deepwater Port Authority; amending the Water Code by adding Chapter 19; amending Section 5, Texas Deepwater Port Act (Article 5415i, Vernon's Texas Civil Statutes); making an appropriation.



**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**

Section 1. The Water Code is amended by adding Chapter 19 to read as follows:

**"CHAPTER 19. TEXAS DEEPWATER PORT AUTHORITY****'SUBCHAPTER A. GENERAL PROVISIONS**

"Section 19.001. **POLICY.** It is the policy, intent, and determination of the legislature that:

"(1) Texas urgently needs an offshore deepwater port capable of accommodating supertankers for the importation of crude oil and other fluid commodities that may be carried in ships of that size;

"(2) it is most desirable for private enterprise to own, construct, and operate such an offshore port;

"(3) in the absence of any active and viable plan to develop a deepwater, offshore port by private enterprise, the State of Texas should construct such a facility, which should be self-supporting and whose design, construction, and operation should be carried out by private companies under contract;

"(4) protecting the environment is essential to the proper operation of such a port;

"(5) the credit of the State of Texas shall not be pledged to finance such a port; and

"(6) the Texas Deepwater Port Authority be created to implement this policy.

"Section 19.002. **DEFINITIONS.** In this chapter:

"(1) 'General manager' means the General Manager of the Texas Deepwater Port Authority.

"(2) 'Authority' means the Texas Deepwater Port Authority.

"(3) 'Board' means the Board of Commissioners of the Texas Deepwater Port Authority.

"(4) 'Commissioner' means a member of the Board of Commissioners of the Texas Deepwater Port Authority.

"(5) 'Deepwater port' means the facilities defined in Section 3(10) of the Deepwater Port Act of 1974, 33 U.S.C.A. 1501 et seq., and also includes the onshore storage tank facilities and the pipelines located within the State of Texas that connect the onshore storage facilities with the offshore facilities of a deepwater port.

"(6) 'Petroleum' means petroleum, crude oil, natural gas, and any substance refined from crude oil or natural gas.

"Section 19.003. **AUTHORIZATION FOR DEEPWATER PORT.** In order to insure that the policy stated in this chapter is not circumvented, the Texas Deepwater Port Authority created by this chapter shall not commence operations unless and until the governor determines, and so states by executive order, that no active and viable plan to develop a deepwater, offshore port by private enterprise exists in Texas and that the Texas Deepwater Port Authority should carry out its responsibilities under this chapter.

"Section 19.004. **EXPIRATION.** If the governor has not made the finding and issued the executive order provided in Section 19.003 of this code, all provisions of this chapter, including the existence of the Texas Deepwater Port Authority, shall expire on January 1, 1979.

"Section 19.005. **TIDELANDS.** None of the provisions of this chapter shall be interpreted or construed to affect Texas' claim to its tidelands or the location of Texas's coastline as interpreted by the State of Texas.

"[Sections 19.006-19.010 reserved for expansion]

**'SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**

"Sec. 19.011. **TEXAS DEEPWATER PORT AUTHORITY.** The Texas Deepwater Port Authority is created as a body politic and corporate.

"Sec. 19.012. COMMISSIONERS; APPOINTMENT. The authority shall be governed by a board of commissioners with nine members, who shall be appointed by the governor with the advice and consent of the senate.

"Sec. 19.013. TERMS OF OFFICE; VACANCIES. (a) Of the initial appointees to the board, the governor shall designate three persons to serve until January 31, 1979, three persons to serve until January 31, 1981, and three persons to serve until January 31, 1983.

"(b) Except for the initial appointees, each commissioner shall hold office for a staggered term of six years and until his successor is appointed and has qualified.

"(c) Any vacancy that occurs on the board shall be filled for the unexpired term in the manner provided in Section 19.012 of this code for making the original appointment.

Sec. 19.014. OFFICERS. (a) Before June 1 of each even-numbered year, the board of commissioners shall elect a chairman, except for the initial election of chairman which shall be made as soon as possible after the effective date of this chapter.

"(b) The board may elect other officers at the times and by the means as it may provide by rule.

Sec. 19.015. BOARD MEETINGS. (a) The board shall meet at least once every three months and may hold other meetings at the call of the chair or of five of the commissioners.

"(b) The board shall provide by rule for the conduct of meetings.

"(c) A majority of the commissioners shall constitute a quorum for the transaction of business.

"(d) All meetings of the board shall be open to the public to the same extent as may be provided by general law for meetings of state boards and agencies.

"Sec. 19.016. COMPENSATION AND EXPENSES. Each commissioner is entitled to receive reimbursement for travel and other necessary expenses resulting from the performance of his duties under this chapter and is entitled to receive as compensation \$75 a day for each day actually engaged in the work of the authority.

"Sec. 19.017. POWERS AND DUTIES OF THE BOARD; DELEGATION. (a) The board shall formulate general policy to govern the authority and its activities.

"(b) The board shall exercise the powers and duties of the authority and may delegate to the agents and employees of the authority such powers and duties as the board may provide.

"Sec. 19.018. GENERAL MANAGER. (a) The board shall employ a general manager to serve at the pleasure of the board.

"(b) The general manager shall be the chief administrative officer of the authority and shall manage the executive and administrative functions of the authority under policies adopted by the board.

"(c) The general manager shall have kept full and accurate minutes of all transactions and proceedings of the authority.

"(d) The general manager shall have any other duties the board may direct.

"Sec. 19.019. EMPLOYEES; COMPENSATION; ETC. (a) The general manager shall employ necessary attorneys, accountants, engineers, technical personnel, and other employees as the board may consider necessary.

"(b) In employing persons under Subsection (a) of this section, the general manager shall comply with all federal laws and rules relating to equal employment opportunity and shall employ for each position the best qualified person for that position.

"(c) The employees of the authority shall receive the compensation provided by the board.

"(d) Employees of the authority shall not be considered employees of the State of Texas.

"Sec. 19.020. RULES. The board shall, after proper notice and hearings, adopt rules governing the conduct of authority operations and the manner of carrying out its powers, duties, and responsibilities.

"Sec. 19.021. DOCUMENTS, ETC.; OPEN FOR INSPECTION. (a) All information, documents, and data collected by the authority in the performance of its duties are open to inspection by any person to the same extent as if that information or the documents or data were the property of the state.

"(b) The general manager shall be the custodian of all the files and records of the authority.

"[Sections 19.022-19.035 reserved for expansion]

#### **'SUBCHAPTER C. INITIAL ACTIVITIES AND STUDIES**

"Sec. 19.036. SECURING OF LICENSE (a) Prior to the acquisition of facilities, the sale of any bonds or notes, or the borrowing of any money, the authority shall secure all necessary licenses and permits for the acquisition, construction, and operation of a deepwater port facility.

"(b) No license or permit may be requested or accepted by the authority, nor may the state be a party to a license or permit which would impose on the State of Texas or the authority any liability or financial obligation by virtue of contract, tort, or otherwise.

"(c) With the exception of the initial appropriation from the General Revenue Fund to the Texas Deepwater Port Authority, the state may not pledge its faith and credit to a project of the Texas Deepwater Port Authority or for expenses of carrying out the powers and duties of the authority. Bonds issued under the provisions of this chapter shall not be deemed to constitute a debt of the state or a pledge of the faith and credit of the state. The authority is not authorized to incur financial obligations which cannot be serviced from the revenues of the authority or from the initial appropriation to the authority.

"Sec. 19.037. ENGINEERING AND ENVIRONMENTAL STUDIES. Concurrent with any applications for licenses and permits for the construction and operation of a deepwater port facility, the authority shall conduct or cause to be conducted engineering and environmental impact studies to determine engineering feasibility of the proposed facility and to determine that adverse effects on the environment will be minimized. The authority may receive information concerning engineering and environmental impact data from any person, firm, or corporation possessing that information and may compensate that person, firm, or corporation a reasonable amount for the information, as determined by the authority.

"Sec. 19.038. FINANCIAL FEASIBILITY. After securing all necessary licenses and permits to enable the acquisition, construction, and operation of a deepwater port facility, the authority shall conduct a study to determine the financial feasibility of constructing and operating a deepwater port facility. In addition to any financial details or other matters it deems relevant, the authority shall specifically investigate financing alternatives and determine which alternative is feasible and most attractive to the state. In no event does the authority have the ability to pledge the general credit of the state.

"Sec. 19.039. FINAL REPORT OF COMMISSION; SUBMISSION OF REPORT TO GOVERNOR. After consideration of the studies required by Sections 19.036-19.038 of this code, the authority shall determine whether or not the facility is feasible and in the public interest and shall submit a detailed report of its findings to the governor and the legislature.

"Sec. 19.040. SUBMISSION TO NATURAL RESOURCES COUNCIL.

On receiving the report containing the findings of the authority, the governor shall transmit a copy of the report to the Natural Resources Council. The Natural

Resources Council shall review the report of the authority and submit a recommendation to the governor on the report. If the council has objections to any part of the report, it shall state those objections in detail in its recommendation to the governor. If the council fails to act within 60 days after the report of the authority is received from the governor, the report is deemed approved by the council.

**"Sec. 19.041. ACTION BY THE GOVERNOR.** The governor shall, within 120 days after the report of the authority is received, either approve or disapprove the findings of the authority. If the report is disapproved, the governor shall state in detail his reasons for disapproval of the report. If the governor disapproves the report of the authority, the authority may revise its report or undertake additional studies and submit a new report to meet the objections of the governor. If the governor has taken no action on the report within 120 days after submission, it is deemed approved.

**"Sec. 19.042. APPROVAL NECESSARY FOR CONSTRUCTION AND ISSUANCE OF BONDS.** Prior to the acquisition of any property or construction of any facilities to be used as a part of a deepwater port facility, the sale of any bonds or notes, or the borrowing of any money, both the authority and the governor must find that the construction and operation of a deepwater port facility is feasible and in the public interest.

**"[Sections 19.043-19.050 reserved for expansion]**

**"SUBCHAPTER D. POWERS AND DUTIES**

**"Sec. 19.051. GENERAL POWERS AND DUTIES.** (a) The authority has the powers and duties specifically prescribed by this chapter and all other powers necessary or convenient to carry out its responsibilities.

**"(b)** The authority shall have, in general, all the powers that are permitted to a corporation by the general laws of this state.

**"Sec. 19.052. SPECIFIC POWERS AND DUTIES"** (a) In addition to its powers and duties under Section 19.051 of this code, the authority shall have the following specific powers and duties as to each individual deepwater port facility:

**"(1)** to acquire by purchase, lease, gift, or in any other manner other than by condemnation and to maintain, use, and operate property of any kind, real, personal, or mixed, or any interest in that property, within or without the boundaries of the State of Texas necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred on it by this chapter;

**"(2)** to acquire by condemnation property of any kind, real, personal, or mixed, other than minerals or interests in minerals, or any interest in that property, within or without the boundaries of the State of Texas necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred on it by this chapter, in the manner provided by Title 52 of the Revised Civil Statutes of Texas, 1925, as amended;

**"(3)** subject to the provisions of this chapter, from time to time to sell or otherwise dispose of any property of any kind, real, personal, or mixed, or any interest in that property that shall not be necessary to carry on the business of the authority;

**"(4)** subject to the limitations of Subsec. (a) of Sec. 19.054 to construct, extend, improve, maintain, and reconstruct, to cause to be constructed, extended, improved, maintained, and reconstructed, and to use and operate, any and all facilities of any kind necessary or convenient to the exercise of such powers, rights, privileges, and functions;

**"(5)** to sue and be sued in its corporate name;

**"(6)** to adopt, use, and alter a corporate seal;

**"(7)** to make bylaws for the management and regulation of its affairs;

"(8) to make contracts and to execute instruments necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred on it by this chapter;

"(9) to borrow money for its corporate purposes and without limitation of the generality of the foregoing, to borrow money and accept grants from the United States or from any corporation or agency created or designated by the United States, and in connection with any such loan or grant, to enter into agreements as the United States or the corporation or agency may require, and to make and issue its bonds and notes for money borrowed, in the manner and to the extent provided in Subchapter F of this chapter;

"(10) to apply for, request, solicit, contract for, receive, and accept money and other assistance from any source to carry out its duties; and

"(11) to do any and all other acts or things necessary or convenient to the exercise of the powers, rights, privileges, or functions conferred on it by this chapter or any other law.

"(b) If the authority requires the relocation, raising, lowering, rerouting, or change in grade or alteration in the construction of any railroad, electric transmission, telegraph or telephone lines, conduits, poles, or facilities, or pipelines in the exercise of the power of eminent domain, all of the relocation, raising, lowering, rerouting, or changes in grade or alteration of construction due to the exercise of the power of eminent domain shall be the sole expense of the authority. The term 'sole expense' means the actual cost of relocation, raising, lowering, rerouting, or change in grade or alteration of construction to provide comparable replacement without enhancement of facilities, after deducting the net salvage value derived from the old facility.

**"Sec. 19.053. STATE-OWNED WATER BOTTOMS; LEASE; ETC. (a)**

The School Land Board shall lease to the authority state-owned water bottoms that are necessary for the construction, operation, and maintenance of a deepwater port.

"(b) The School Land Board shall not lease to any third party any water bottoms that may be necessary for construction, operation, or maintenance of a deepwater port unless the authority certifies to the School Land Board that those water bottoms are not required for use by the authority.

"(c) Necessary water bottoms shall be leased to the authority on the terms and for the compensation to which the School Land Board and the authority shall mutually agree.

"(d) Mineral rights and interests in the leased areas are reserved to the state; however, the School Land Board may not lease for mineral development any areas leased to the authority without the consent of the authority unless the mineral lease will not adversely affect the deepwater port.

"(e) The School Land Board, the authority, and the lessee may enter into agreements to coordinate the use of sites needed by the authority if the sites have existing mineral leases.

"(f) Nothing in this section shall authorize the authority to explore for, develop, or produce any minerals of whatever kind.

**"Sec. 19.054. DEVELOPMENT OF A DEEPWATER PORT. (a)** The authority shall, as soon as possible after the effective date of this chapter:

"(1) have designed, licensed, developed, built, operated, maintained, or modified any deepwater port or ports as it shall determine to be necessary from time to time;

"(2) provide that the engineering, design, construction, operation, and maintenance of those deepwater ports shall be carried out by suitable private enterprise under the regulation and supervision of the authority;

“(3) finance those deepwater ports through self-supporting revenue bonds backed by tariffs charged the users of the facilities and by any other means that may be necessary or convenient and consistent with the provisions of this chapter;

“(4) enter into contracts with public or private entities necessary to carry out the provisions of this chapter, provided, however, that no contract for purposes of operation of a deepwater port may be entered into by the authority unless the contract stipulates that the public or private entities contracting with the authority shall assume any liability of the authority for any causes of action arising from environmental damage;

“(5) apply for any necessary licenses, permits, or other permissions necessary to carry out the provisions of this chapter;

“(6) set and collect those charges the authority may determine are appropriate for any service or other action performed by or requested of the authority;

“(7) take any actions the authority may determine are necessary or cause to be done any of the things required of the authority under this chapter;

“(8) enter into agreements with port and navigation districts and other political subdivisions or agencies of the state regarding matters of mutual concern;

“(9) make payments in lieu of taxes to the state and political subdivisions of the state to the same extent as if the property of the authority were privately owned; and

“(10) take any other actions determined by the board to be necessary for the authority to carry out its duties and responsibilities in implementing the provisions of this chapter.

“(b) In addition to the foregoing, the authority may:

“(1) own, construct, maintain, lease as lessor or lessee, and sell by installment sale or otherwise, deepwater mooring facilities, wharves, sheds, pipelines, pumping stations, tanks, tank farms and facilities, heliports, warehouses, vessels, and other property, structures, equipment, and other facilities functionally related to a deepwater port;

“(2) dredge and maintain shipways, channels, anchorage, roadsteads, and fairways;

“(3) establish, operate, and maintain navigable waterway systems in cooperation with the United States, this state, and political subdivisions of this state;

“(4) enter into a contract with any public or private entity to provide public utility service to the authority and its facilities, or provide its own utility services;

“(5) negotiate with and enter into contracts, compacts, and other agreements with the United States and other states of the United States concerning development programs including jurisdictional aspects of the location of deepwater ports and adoption and enforcement of rules governing authority operations;

“(6) adopt tolls, fees, rates, tariffs, and charges for use of the terminal or terminals or any of its facilities;

“(7) provide for use of existing port facilities, and provide for rates, wharfage fees, and other matters of mutual interest, by agreements with existing port authorities and navigation districts; and

“(8) enter into contracts or agreements with any person, corporation, trust, or partnership for the financing, construction, operation, maintenance, and sale by installment or otherwise of a deepwater port or any facilities relative to a deepwater port.

“Sec. 19.055. **AUTHORITY CONTRACTS.** (a) The authority may let any contracts for the purchase of materials, machinery, and equipment to constitute the plant, works, facilities, and improvements of a deepwater port, for construction, or for other purposes.

“(b) All these contracts shall be let to the lowest bidder after sealed bids are solicited by public notice.

"(c) The board may exempt contracts from this requirement for sealed bidding by rule.

"(d) The board shall adopt specific rules to implement this section, including exceptions to the sealed bid requirement the board considers necessary.

"[Sections 19.056-19.100 reserved for expansion]

#### **\*SUBCHAPTER E. ENVIRONMENTAL PROTECTION**

"Sec. 19.101. PROTECTION OF THE ENVIRONMENT. (a) The authority shall take all reasonable steps to protect the coastal environment and the high seas from any short-term or long-term damage or harm that might occur from any action the authority may take.

"(b) The general manager, under the direction of the board, shall formulate an environmental protection plan as soon as possible, which shall be adopted by the authority after proper notice and hearing.

"(c) In preparing and adopting the environmental protection plan, the authority shall consult and coordinate with any federal, state, and local agencies that have responsibility for environmental protection within the state and shall comply with applicable rules.

"(d) The environmental protection plan may be amended at any time by the authority after proper notice and hearing.

"(e) Environmental protection shall be a primary responsibility of the authority, and costs incurred to develop the plan to protect the environment shall be considered a necessary cost to the authority and shall be considered a cost to the same extent that economic, engineering, or promotional programs are considered costs.

"[Sections 19.102-19.130 reserved for expansion]

#### **\*SUBCHAPTER F. FINANCIAL PROVISIONS**

"Sec. 19.131. GENERAL PROVISIONS. The authority may:

"(1) borrow money from time to time for any corporate purpose or in aid of any corporate purpose;

"(2) issue and sell notes and provide the terms and conditions for repayment with interest and the rights of the holders of the notes;

"(3) issue and sell bonds and provide the terms and conditions for repayment with interest and the rights of the bondholders;

"(4) pledge, hypothecate, or otherwise encumber all or any designated part of the revenues and receipts of the authority as security for any of its notes or bonds;

"(5) invest money held in sinking fund, reserve fund, or other fund or money not required for immediate use or disbursement in such securities as it shall determine;

"(6) apply for, accept, and administer grants, loans, and other assistance from the United States or any agency or instrumentality of the United States and any agency or instrumentality of this state to carry out the purpose of this chapter, and enter into any agreement in relation to those grants, loans, or other assistance as may be provided by the authority which is not in conflict with the constitution of this state; and

"(7) fix, charge and alter, and collect reasonable rentals, rates, fees, and other charges for the use of any works and facilities or for any services rendered by the authority and provide for the imposition of reasonable penalties for any of those rates, fees, and charges that are delinquent.

"Sec. 19.132. FORM AND TERMS OF BONDS AND NOTES. (a) Bonds and notes issued under the provisions of this chapter together with any interest coupons shall be authorized by resolution of the board and shall have the form and characteristics and bear the designation as are therein provided.

"(b) Bonds and notes shall:

"(1) be authorized by resolution or resolutions of the board;

"(2) bear the date or dates, mature at the time or times, serially, terms, or otherwise in not more than 50 years from their dates; and

"(3) be callable prior to stated maturity on the terms and at the prices, bear interest at such rate or rates, be payable annually, semiannually, or otherwise, be in the denominations, be in the form, either coupon or registered, carry the registration privileges as to principal only or as to both principal and interest and as to successive exchange of coupon for registered bonds or notes or vice versa and successive exchange of bonds or notes of one denomination for bonds or notes of other denominations, be executed in the manner, and be payable at the place or places within or without the state as the resolution or resolutions may provide.

"(c) Bonds or notes may be issued in one or more installments and from time to time as required and sold at a price or prices and under terms determined by the board to be the most advantageous reasonably obtainable.

"(d) The proceeds of the sale of bonds or notes shall be deposited in the bank or banks or trust company or trust companies and shall be paid out pursuant to the terms and conditions that may be agreed on between the authority and the purchasers.

"Sec. 19.133. EXECUTION OF BONDS, NOTES, AND COUPONS. (a)

Bonds or notes issued under the provisions of this chapter shall be signed by the chairman or vice-chairman of the board, be attested by its general manager, and bear the seal of the authority.

"(b) Any interest coupons appurtenant to the bonds or notes shall be signed by the chairman or the vice-chairman of the board and be attested by its general manager.

"(c) The resolution or resolutions authorizing the issuance of an installment or any series of bonds or notes may prescribe the extent to which the authority, in executing the bonds, notes, or appurtenant coupons, may use facsimile signatures and facsimile seals instead of manual signatures and manually impressed seals.

"(d) If an officer whose manual or facsimile signature appears on a bond or note or whose facsimile signature appears on any coupons ceases to be an officer before the bond or note is delivered, the signature is valid and sufficient for all purposes as if he had remained in office until the delivery had been made.

"(e) Neither the members of the board nor officers of the authority nor anyone executing the bonds or notes for and on behalf of the authority shall be liable personally on the bonds or notes of the authority by reason of participation in any way in the issuance of the bonds or notes.

"Sec. 19.134. SECURITY PROVISIONS, ETC. (a) The bonds or notes may be secured by a pledge of all or any part of the revenues or receipts of the authority or by the revenues of any one or more leases or other contracts theretofore or thereafter made or other revenues or income specified by the resolution of the board or in the trust indenture or other instrument securing the bonds or notes. A pledge may reserve the right, under conditions specified in it, to issue additional bonds or notes that will be on a parity with or subordinate to the bonds or notes then being issued.

"(b) A pledge or security instrument made by the authority is valid and binding from the time when it is made. The revenues or money pledged and entrusted and thereafter received by the authority shall immediately be subject to the lien of the pledge or security instrument without any physical delivery of it or further act. The lien of the pledge or security instrument is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether the parties have notice thereof. Neither the resolution nor any security instrument or other instrument by which a pledge or security interest is created need be recorded or filed, and compliance with any



provision of any other law is not required in order to perfect the pledge or other security interest.

"Sec. 19.135. **PROVISIONS OF RESOLUTION.** A resolution authorizing bonds or notes or a trust indenture under which bonds or notes may be issued may contain provisions, which shall be a part of the agreement with the holders of bonds or notes, as to:

"(1) pledging all or any part of the rentals, rates, fees, and other charges made or received by the authority and other money received or to be received from the planning, financing, ownership, operation, or sale of or otherwise in connection with any project to secure the payment of the bonds or notes or of any issue of the bonds or notes;

"(2) pledging all or any part of the assets of the authority, including any obligation acquired by the authority, to secure the payment of the bonds or notes or any issue of the bonds or notes;

"(3) the use and disposition of rentals, rates, fees, and other charges made or received by the authority;

"(4) pledging to establish, alter, and collect rates and other charges with respect to each property or facility sufficient to produce revenues adequate to pay all expenses necessary to the operation and maintenance of such to be made in respect of any of those bonds or notes payable out of those revenues as the bonds or notes become due and payable, and to fulfill the terms of any agreement made with the holders of the bonds or notes and with any person in their behalf;

"(5) the setting aside of reserves or sinking funds and the regulation and disposition of those reserves and sinking funds;

"(6) limitations on the purpose to which the proceeds from the sale of the bonds may be applied and pledging the proceeds to secure the payment of the bonds, notes, or any issue of the notes or bonds;

"(7) limitations on the issuance of additional bonds and on the refunding of outstanding or other bonds or notes;

"(8) the acquisition, construction, improvement, operation, extension, enlargement, maintenance, and repair of any project and the duties of the authority with reference thereto;

"(9) the procedure, if any, by which the terms of any agreement with bondholders or noteholders may be amended or abrogated, the amount of bonds or notes the holders of which are required to give consent thereto, and the manner in which the consent may be given;

"(10) limitations on the amount of money to be spent by the authority for administrative or other expenses;

"(11) vesting in a trustee or other fiduciary, property, rights, powers, and duties in trust the authority determines, which may include any of the rights, powers, and duties of the trustee appointed by the bondholders or noteholders pursuant to this chapter, and abrogating the right of the bondholders or noteholders to appoint a trustee under this chapter or limiting the rights, powers, and duties of the trustee;

"(12) placing the management, operation, and control of specified works and facilities of the authority in the hands of a board of trustees to be named in the resolution or trust indenture and specifying the terms of office of the trustees, their powers and duties, the manner of exercising the same, the appointment of successors, and all matters pertaining to their organization and duties; and

"(13) any other matters, of like or different character, which in any way affect the security or protection of the bonds or notes or the bondholders or noteholders.

"Sec. 19.136. **DEFAULT PROVISIONS.** The resolution authorizing the issuance of the bonds or notes or the trust indenture or other instrument securing them may provide that in the event of a default or, under the conditions therein stated, a threatened default in the payment of principal or of interest on bonds or

notes, any court of competent jurisdiction may, on petition of the holders of outstanding bonds or notes, appoint a receiver with authority to collect and receive pledged income, and those instruments may limit or qualify the rights of less than all of the holders of the outstanding bonds or notes payable from the same source to institute or prosecute any litigation affecting the authority's properties or revenues.

"Sec. 19.137. **ADDITIONAL SECURITY.** (a) Any bonds or notes, including refunding bonds, authorized by this chapter may be additionally secured by a trust indenture under which the trustee may be a bank having trust powers situated either within or without the state.

"(b) The bonds or notes, within the discretion of the board, may be additionally secured by a mortgage or a deed of trust lien or security interest on works and facilities of the authority and all real property, franchises, easements, leases, and contracts and all rights appurtenant to those properties, vesting in the trustee power to sell those works and facilities for the payment of the indebtedness and to operate those works and facilities, and all other powers and authority for the further security of the bonds or notes.

"(c) The trust indenture, regardless of the mortgage or the deed of trust lien or security interest in the properties, may contain any provisions prescribed by the authority for the security of the bonds or notes and the preservation of the trust estate, and may make provision for amendment or modification thereof, and may condition the right to spend the authority's money or sell the authority's works and facilities on approval of a registered professional engineer selected as provided in the trust indenture, and may make any other provisions for protecting and enforcing the rights and remedies of the bondholders or noteholders as may be reasonable and proper and not in violation of the law. The trust indenture may also contain provisions governing the issuance of bonds and notes to replace lost, stolen, or mutilated bonds or notes.

"Sec. 19.138. **BOND PROCEEDS.** (a) The board may direct the investment of money in the funds created by the resolutions, trust indentures, or other instruments securing the bonds or notes. If

"(b) From the proceeds from the sale of the bonds or notes, the board may set aside amounts for payments into the interest and sinking fund until completion of construction and until adequate revenue is available from operations to pay principal and interest and amounts for payments into reserve funds, and provisions for such may be made in the resolution authorizing the bonds, notes, or the trust indenture or other instrument securing the bonds or notes.

"(c) Proceeds from the sale of the bonds or notes shall be used for the payment of all expenses of issuing and selling the bonds or notes.

"(d) The proceeds from the sale of the bonds or notes and money in any funds created in connection with the bonds or notes may be invested in:

"(1) direct or indirect obligations of or obligations unconditionally guaranteed by the United States government or one of its agencies maturing in the manner that may be specified by the resolution authorizing the bonds or notes or the trust indenture or other instrument securing the bonds or notes; or

"(2) certificates of deposit of any bank or trust company whose deposits are secured by the obligations described in Subdivision (1) of this subsection.

"Sec. 19.139. **DEPOSITORY.** Any bank or trust company incorporated under the laws of the United States or any state in the United States may be designated by resolution to act as depository for the proceeds of bonds, notes, or contract or lease revenues or other revenues of the authority. The bank or trust company shall furnish indemnifying bonds or pledge securities to secure those deposits to the same extent as may be required by general law to secure the deposit of state funds.

"Sec. 19.140. **REFUNDING.** (a) The board may provide by resolution for the issuance of refunding bonds or notes to refund outstanding bonds or notes issued under this chapter and their accrued interest.

"(b) The authority may sell these bonds or notes and use the proceeds to retire the outstanding bonds or notes issued under this chapter or the authority may exchange the refunding bonds or notes for the outstanding bonds or notes.

"(c) The issuance of the refunding bonds or notes, their maturity, the rights of the bondholders and the duties of the authority with respect to refunding bonds or notes are governed by the provisions of this chapter relating to original bonds or notes, to the extent that they may be made applicable.

"(d) The authority may also refund any bonds or notes under the provisions of general law.

"Sec. 19.141. **APPROVAL AND REGISTRATION OF BONDS AND NOTES.** (a) After bonds and notes, including refunding bonds and notes, are authorized by the board, those bonds and notes and the record relating to their issuance shall be submitted to the attorney general for his examination as to their validity.

"(b) If the bonds and notes recite that they are secured by a pledge of the proceeds of any lease or other contract previously made between the authority and any person, those leases and contracts may also be submitted to the attorney general.

"(c) If those bonds or notes have been validly authorized and if those leases or contracts have been made in accordance with the constitution and laws of the state, the attorney general shall approve the bonds or notes, and the leases or contracts and the bonds or notes shall be registered by the state comptroller.

"(d) The attorney general in approving bonds or notes issued in anticipation of being refunded by other bonds and notes shall not require as a condition of his approval that those bonds or notes being examined have pledged to them sufficient revenues to retire the bonds and notes before the time they will be refunded in accordance with such anticipation.

"Sec. 19.142. **INCONTESTABILITY.** After the bonds or notes, and the leases or other contracts, if any, have been approved by the attorney general, and the bonds and notes have been registered by the state comptroller and delivered to the purchasers, those bonds and notes and any underlying leases and contracts are incontestable for any cause.

"Sec. 19.143. **DUTIES ENFORCEABLE BY MANDAMUS.** Payment of any bonds and notes according to the term and tenor, performance of agreements with the holders of bonds or notes or any person in their behalf, and performance of official duties prescribed by the provisions of this chapter in connection with any bonds or notes may be enforced in any court of competent jurisdiction by mandamus or other appropriate proceeding.

"Sec. 19.144. **BONDS NEGOTIABLE.** Bonds issued under the provisions of this chapter and coupons, if any, representing interest on those bonds, shall, when delivered, be deemed and construed to be a 'security' within the meaning of Chapter 8 of the Uniform Commercial Code, as amended.

"Sec. 19.145. **BONDS AND NOTES NOT TAXABLE.** Bonds and notes issued under the provisions of this chapter, the interest on the bonds and notes, and the profit from the sale of the bonds and notes shall be exempt from taxation, except inheritance taxes, by the state or by any municipal corporation, county, or other political subdivision or taxing district of the state.

"Sec. 19.146. **AUTHORIZED INVESTMENTS.** Bonds and notes issued under this chapter are legal and authorized investments for:

"(1) banks;

“(2) savings banks;  
“(3) trust companies;  
“(4) building and loan associations;  
“(5) insurance companies;  
“(6) fiduciaries;  
“(7) trustees; and  
“(8) sinking funds of the state and of cities, towns, villages, counties, school districts, and all political corporations, subdivisions, and public agencies of the state.

“Sec. 19.147. SECURITY FOR DEPOSIT OF FUNDS. Bonds and notes issued under the provisions of this chapter, when accompanied by all appurtenant unmatured coupons if any, are lawful and sufficient security for all deposits of funds of the state or of a city, town, village, county, school district, or any other agency or political corporation or subdivision of the state, at the par value of the bonds.

“Sec. 19.148. SOURCE OF REPAYMENT. Bonds and notes issued under the provisions of this chapter together with the interest on the bonds and notes shall be secured by and payable solely from the revenues and receipts of the authority and other money available therefor, including, without limitation, rentals, rates, fees, and other charges made and received by the authority and other money received and to be received from grants and assistance, and other money received and to be received from the planning, financing, ownership, or operation of any works and facilities of the authority, and other money available therefor from proceeds of bonds or notes.

“Sec. 19.149. STATE CREDIT NOT PLEDGED. (a) The provisions of this chapter shall not be construed to authorize the giving or lending of the credit of the state or to be a pledge of the credit of the state for the payment of any bonds or notes issued under the provisions of this chapter, and the purchasers and successive holders of any bonds or notes shall never have the right to demand payment from any money or revenues of the authority except those pledged to the payment of bonds or notes.

“(b) This chapter shall not be construed as obligating this state to the holders of any of those bonds or notes nor to constitute a contract on the part of this state to make money available for any of the authority’s needs.

“(c) This state, however, pledges and agrees to the holders of any bonds or notes issued under this chapter that it will not limit or alter the rights vested in the authority to fulfill the terms of any agreements made with the holders thereof consistent herewith, or in any way impair the rights and remedies of the holders until the bonds and notes, together with interest on them, with interest on any unpaid installments of interest, and all costs and expenses for which the authority is liable in connection with any action or proceedings by or on behalf of the holders, are fully met and discharged. The authority shall include this pledge and agreement of the state in any agreements it makes with the holders of the bonds or notes.”

Sec. 2. Section 5, Texas Deepwater Port Procedures Act (Article 5415i, Vernon’s Texas Civil Statutes) is amended to read as follows:

“Section 5. (a) Upon receipt of a copy of an application transmitted from the secretary of transportation pursuant to the federal Deepwater Port Act of 1974, 33 U.S.C.A. 1501 et seq., the governor shall immediately transmit a copy of the application to the commissioner of the general land office and to the Attorney General of Texas.

“(b) If the governor determines that the application transmitted from the Secretary of Transportation is substantially similar to a previous application already reviewed under the terms of this Act, the governor may notify the Secretary of Transportation whether the governor approves or disapproves the application, and there shall be no further proceedings under this Act on such application.

"(c) [(b)] Within 15 days after the receipt of an application from the governor, the commissioner shall publish notice of the application in any official register of the State of Texas, in the newspaper of greatest general circulation in Travis County and in each of the five most populous counties in Texas, according to the latest United States census, and in a newspaper in the adjacent coastal county and in any county adjoining the adjacent coastal county in which such notice would not have otherwise been published under this subsection.

"(d) [(e)] Within 30 days after the receipt of an application from the governor, the attorney general shall determine and forward to the governor and to the commissioner a list of the state or local agencies which have jurisdiction to administer laws relating to environmental protection, land and water use, and coastal zone management, and also within whose boundaries are located facilities constituting a deepwater port, as defined by Section 3(5) herein.

"(e) [(d)] Upon receipt of the list of state or local agencies prepared by the attorney general pursuant to Subsection (d) [(e)] of this section, the commissioner shall immediately transmit a copy of the application to each such state or local agency for review and determination of whether the application complies with the laws or regulations administered by such state or local agency.

"(f) [(e)] The state or local agency shall report such determination to the commissioner in writing within 60 days after its receipt of a copy of the application from the commissioner.

"(g) [(f)] If any state or local agency reports to the commissioner that the application is not in compliance, such agency shall set forth in detail the manner in which the application does not comply with any law or regulation administered by the agency and shall report to the commissioner how the application can be brought into compliance with the law or regulation involved. A copy of such report shall be forwarded by the commissioner to the applicant, and the applicant shall be entitled to respond in writing to the state or local agency which issued such report and to request that a public hearing be held by the commissioner on the provisions of the application determined by the state or local agency not to comply with state or local law.

"(h) [(g)] The failure of a state or local agency to forward a determination report to the commissioner within the time period established in Subsection (f) [(e)] of this section shall constitute a presumption that the application complies with the law or regulations administered by that agency.

"(i) [(h)] One copy of the application shall be filed in the general land office and in the office of the county judge of the adjacent coastal county for public inspection and shall be available to the public for inspection or duplication during normal business hours. A person requesting a copy of the application may be charged a reasonable fee for duplicating and mailing costs. The applicant may be charged a reasonable fee to cover the costs of reproducing and mailing copies of applications to state and local agencies, unless the applicant provides the number of copies required by such agencies."

Sec. 3. There is appropriated from the General Revenue Fund to the Texas Deepwater Port Authority \$500,000 for the purposes of providing for any necessary expenses for carrying out the provisions and responsibilities of this Act, until the bonds anticipated under this Act are issued. The amounts appropriated shall be repaid to the General Revenue Fund from the proceeds of the bonds issued.

Sec. 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

**Amendment No. 2**

Amend C.S.S.B. No. 7 by striking quoted Section 19.011 on page 3 and inserting the following:

“Section 19.011. TEXAS DEEPWATER PORT AUTHORITY. The Texas Deepwater Port Authority is created as an agency of the state and pursuant to Article XVI, Section 59, Subsection (a) of the Texas Constitution.

**Amendment No. 3**

Amend C.S.S.B. No. 7 by inserting “, subject to the provisions of Section 19.036,” following “authority” on page 17, line 15.

**Amendment No. 4**

Amend C.S.S.B. No. 7 by inserting, after the word “owned” on page 14, line 2, the phrase “, provided, however, that any payments in lieu of taxes shall be based on full value less the value of the interests of any public or private entities contracted with to operate the facility”

**Amendment No. 5**

Amend C.S.S.B. No. 7 by striking quoted Subsection (b) of quoted Section 19.036 on page 6 and substituting the following:

“(b) No license or permit may be requested or accepted by the authority nor may the state be a party to a license or permit which would impose on the State of Texas or the authority any liability or financial obligation by virtue of contract, tort, or otherwise unless that liability or financial obligation is fully indemnified without expense of state funds.

**Amendment No. 6**

Amend C.S.S.B. No. 7 by renumbering Section 4 on page 32 as Section 5 and inserting as new Section 4 to read as follows:

Sec. 4. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

**Amendment No. 7**

Amend S.B. 7 page 7 line 17 by adding the following after the word “and”:

“, if construction of such deepwater port facility is commenced,”

**Amendment No. 8**

Amend C.S.S.B. No. 7 by inserting the following between the word “Authority” and the comma on line 26, page 6:

"and revenues of the authority"

and by inserting the following between the words "credit" and "to" on line 27, page 5:

"or contribute any state funds"

**Amendment No. 9**

Amend C.S.S.B. No. 7 on page 15, line 16 to insert "responsible" between "lowest" and "bidder".

**Amendment No. 10**

Amend C.S.S.B. No. 7 by striking quoted Subsection (c) of quoted Section 19.055 on page 15 and relettering the remaining subsections of that section accordingly.

**Amendment No. 11**

Amend C.S.S.B. No. 7 by striking quoted Subsection (d) of quoted Section 19.055 on page 15.

**Amendment No. 12**

Amend CSSB 7 p. 14 by inserting after the word "systems" on line 16 and before the word "in" the following:

"in the immediate area of the facilities constructed hereunder,"

**Amendment No. 13**

Amend CSSB No. 7 Page 25 line 5 (Sec. 19.139) by adding at the end of line 5 the words:

"located in this state and"

The amendments were read.

Senator Harris raised the Point of Order that consideration of House Amendment 1 was out of order because it was in contravention of Article XVI, Section 59(d) of the Constitution of the State of Texas.

The President overruled the Point of Order.

On motion of Senator Schwartz, the Senate concurred in House amendments to S.B. 7 by the following vote: Yeas 23, Nays 3.

Yeas: Aikin, Andujar, Brooks, Clower, Creighton, Doggett, Farabee, Hance, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Meier, Mengden, Parker, Patman, Santiesteban, Schwartz, Snelson, Traeger, Truan, Williams.

Nays: Braecklein, Harris, McKnight.

Absent: Moore, Sherman.

Absent-excused: Adams, Mauzy, Ogg.

#### **SENATE CONCURRENT RESOLUTION 16**

Senator Doggett offered the following resolution:

**S.C.R. 16**, Granting the Best Company permission to sue the State of Texas.

The resolution was read.

On motion of Senator Doggett and by unanimous consent, the resolution was considered immediately and was adopted.

#### **SENATE RESOLUTION 53**

Senator Aikin offered the following resolution:

Honorable William P. Hobby  
President of the Senate  
Austin, Texas

Sir:

At a caucus held on July 21, 1977, and attended by 22 members of the Senate, the following recommendations were made, to-wit:

#### **BE IT RESOLVED BY THE SENATE:**

The Lieutenant Governor may employ such employees as are necessary for the operation of his office from the closing of this session and until the convening of the next session, and in addition thereto he and the Secretary of the Senate shall be furnished postage, telegraph, telephone, express and all other expenses incident to their respective offices.

The Secretary of the Senate shall be retained during the interval between adjournment of this session and the convening of the next session of the Legislature. The Secretary of the Senate may employ such employees as are necessary for the operation of her office and to perform duties as may be required in connection with the business of the State from the closing of this session and until the convening of the next session.

The Sergeant-at-Arms shall be retained and a number of assistants as necessary in the operation of the Senate until the convening of the next session.

The Administration Chairman is authorized to retain a sufficient number of staff employees to conclude the work of the Enrolling Room, Staff Services Room and Journal Clerk. The Committee on Administration shall establish the salaries to be paid the Senate staff.

The Chairman of the Senate Committee on Administration is hereby authorized and directed to cause the Senate Chamber to be placed in order and to purchase such supplies and to make all such repairs and improvements as are necessary between the adjournment of this session and the convening of the next session of the Legislature and make an inventory of all furniture and fixtures in the Senate Chamber and in the private offices of the members, as well as of the supplies and equipment on hand in the room of the Sergeant-at-Arms and close his books for



the First Called Session of the Sixty-Fifth Legislature. No equipment shall be acquired on a rental/purchase plan unless such equipment be placed on the Senate inventory at the termination of such plan. He shall also examine records and accounts payable out of the Contingent Expense Fund as shall be necessary properly to approve all claims and accounts against the Senate, and no claim or account shall be paid without his consent and approval, and he and any member of the Administration Committee shall be entitled to receive his actual and necessary expenses incurred during the interim; and, be it further

RESOLVED, That there shall be printed 325 volumes of the Senate Journal of the First Called Session of the 65th Legislature and when complete 250 copies shall be bound in buckram and delivered to the Secretary of the Senate and one volume thus bound shall be forwarded by the Secretary of the Senate to each member of the Senate, each member of the House of Representatives on request, to the Lieutenant Governor, and 65 paper bound copies shall be furnished to the State Library. The printing of such journals shall be done in accordance with the provisions of this Resolution under the supervision of the Chairman of the Committee on Administration; provided, further, that it shall be the duty of said Chairman to refuse to receive or receipt for said Journals until corrected and published in accordance with the pre-existing law as finally approved by the Chairman of the Committee on Administration of the Senate. When the accounts have been certified by the Chairman of the Committee on Administration of the Senate, said accounts shall be paid out of the Contingent Expense Fund of the 65th Legislature; and, be it further

RESOLVED, That all salaries and expenses herein authorized to be incurred and paid for shall be paid out of the per diem and Contingent Expense Fund of the 65th Legislature as follows: The Senate shall request the State Comptroller of Public Accounts to issue general revenue warrants for payment of the employees of the Lieutenant Governor's office, the Lieutenant Governor, members of the Senate, and employees of the Senate committee upon presentation of a payroll account signed by the President of the Senate and the Secretary of the Senate; for payment of employees of the Senate, except as provided in Section 20 of the Legislative Reorganization Act (Article 5429f, Vernon's Texas Civil Statutes), upon presentation of the payroll account signed by the Chairman of the Administration Committee and the Secretary of the Senate; and for the payment of materials, supplies and expenses of the Senate, including travel expenses for members and employees, upon vouchers signed by the chairman of the Senate Committee on Administration and the Secretary of the Senate; and, be it further

RESOLVED, That in furtherance of the Legislative duties and responsibilities of the Senate, the Administration Committee is hereby authorized and directed to charge to the individual members office budget as hereinafter authorized: (1) reimbursement of all actual expenses incurred by the members when traveling in performance of such duties and responsibilities or incident thereto, and (2) payment of all other reasonable and necessary expenses for the operation of the office of the individual Senator during any period the Legislature is not in session. Expenditures for these services by the Administration Committee as hereby authorized as an expense of the Senate shall not be restricted to Austin, but may be incurred in individual Senatorial Districts. Such expenses shall be paid from funds appropriated for the use of the Senate on vouchers approved by the Chairman of the Administration Committee and the Secretary of the Senate in accordance with regulations governing such expenditures; and, be it further

RESOLVED, That for the time period from the end of the First Called Session until the convening of the next regular or special session, each Senator shall be permitted to employ secretarial and other office staff at a maximum payroll of \$4,900.00 per month under the classification schedule hereinafter provided. Other

expenses including actual travel expenses or other reasonable and necessary expenses incurred in the furtherance and performance of legislative duties or in operation of his office or incident thereto shall be provided in addition to the maximum salary authorized.

It is further recommended that each employee of the Senate except elected officers be classified and paid pursuant to the following schedule to include salary changes made by the General Appropriations Act:

Title	Class Number	Group	Salary and Step Range
Clerk I	0051	02	534(1) - 552(2) - 571(3)
Messenger	0011	02	590(4) - 610(5) - 630(6)
Clerk Typist II	0106	04	610(1) - 630(2) - 651(3)
Stenographer I	0126	04	673(4) - 696(5) - 719(6)
Secretary II	0133	05	743(5) - 768(6) - 794(7)
Secretary III	0135	07	848(5) - 876(6) - 906(7)
Admin. Sec.	0138	09	968(5) - 1000(6) - 1034(7)
Info. Spec. I	1892	14	1179(1) - 1219(2) - 1259(3)
Admin. Tech. I	1501	08	906(5) - 936(6) - 968(7)
Admin. Tech. II	1502	11	1068(4) - 1104(5) - 1141(6)
Admin. Tech. III	1503	13	1179(3) - 1219(4) - 1259(5)
Admin. Tech. IV	1504	15	1345(3) - 1391(4) - 1437(5)
Info. Spec. II	1893	16	1391(2) - 1437(3) - 1486(4)
Attorney III	3533	17	1437(1) - 1486(2) - 1535(3)
Research Asst. II	1517	13	1302(6) - 1345(7) - 1391(8)
ADP Equip. Oper. I	0221	07	743(1) - 794(3) - 848(5)
Rep. Equip. Oper. I	0309	09	848(1) - 906(3) - 968(5)

Employees who do not readily fit one of the above classified positions may be assigned a title under the General Classified Positions outlined in the General Appropriations Act upon authorization of the Administration Committee; and, be it further

**RESOLVED**, That the Lieutenant Governor shall have the authority to appoint any member of the Senate, the Secretary of the Senate or other Senate employees to attend National Legislative Conferences and other similar meetings. Necessary and actual expenses are hereby authorized upon the approval of the Chairman of the Administration Committee and the Secretary of the Senate; and, be it further

**RESOLVED**, That the Chairman of the Finance Committee have authority to employ such additional employees of his own selection as may be needed by said committee, said employees to receive the same compensation paid similar positions as herein fixed, who shall discharge the duties of the Finance Committee; and, be it further

**RESOLVED**, That each of the Standing Committees and Subcommittees of the Senate of the 65th Legislature be authorized to continue to meet at such times and places during the interim as determined by such committees and subcommittees and to hold hearings, recommend legislation and perform research on matters directed either by resolution, the Lieutenant Governor or as determined by majority vote of each committee. Each continuing committee and subcommittee shall continue to function under the rules adopted during the legislative session where applicable. Expenses for the operation of these committees and subcommittees are hereby authorized to be paid pursuant to a budget prepared by each committee and approved by the Administration Committee; and, be it further

**RESOLVED**, That there is hereby created a committee whose membership shall consist of all 31 Senators and the Dean of the Senate shall preside as

Chairman. The Chairman may appoint a vice-chairman or chairman pro tempore to preside in the absence of the Chairman.

The committee has the duty and authority to supervise all matters relating to the elected officers or internal affairs of the Senate. The committee has the power to do all things reasonable and necessary in carrying out its responsibilities including, but not limited to, the discharge of elected officers, filling vacancies in any elected office, determining salaries of elected officers, and prescribing the powers, functions, responsibilities and duties of the several elected officers of the Senate. The committee shall meet at the call of the Chairman or at a date specified in a written request of eleven members, or as may be determined by the committee after its initial meeting. Twenty-one members shall constitute a quorum and a majority of the quorum may take action.

The operating expenses of this committee shall be paid from the contingent expense fund of the Senate and the committee members shall be reimbursed for their actual expenses incurred in carrying out the duties of the committee; and, be it further

**RESOLVED**, That the cash balance on hand under the provisions of Senate Resolution No. 15 of the Forty-Seventh Legislature be turned over to the Secretary of the Senate and she is directed to have full charge of the vending machines and to expend receipts thereof as now authorized by said Resolution; and, be it further

**RESOLVED**, That the Sergeant-at-Arms is specifically directed not to permit the removal of any of the property of the Senate from the Senate Chamber or the rooms of the Senate except as authorized by the Chairman of the Administration Committee.

Respectfully submitted,

A. M. Aikin, Jr.  
Chairman of the Caucus

W. E. Snelson  
Secretary of the Caucus

The resolution was read and was adopted.

#### **RECORD OF VOTE**

Senator Patman asked to be recorded as voting "Nay" on the adoption of the resolution.

#### **MESSAGE FROM THE HOUSE**

House Chamber  
July 21, 1977

Honorable William P. Hobby  
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

All Necessary rules suspended, and the House concurred in Senate Amendments to House Bill No. 11 by a vote of 123 ayes, 13 noes, 1 pnv.

S.C.R. No. 16, Granting the Best Company permission to sue the State of Texas and the Texas Senate.

Respectfully submitted,  
BETTY MURRAY, Chief Clerk  
House of Representatives

**ELECTION OF PRESIDENTS PRO TEMPORE AD INTERIM  
OF FIRST CALLED SESSION OF SIXTY-FIFTH LEGISLATURE**

The President announced the time had arrived for the election of the Presidents Pro Tempore Ad Interim of the First Called Session of the Sixty-fifth Legislature.

Senator Aikin nominated Senator Peyton McKnight of Tyler as President Pro Tempore Ad Interim Principalis.

The President appointed Senators Truan and Santiesteban as tellers.

The ballots were taken up and counted and the President announced that Senator McKnight had received 27 votes with one present and not voting for President Pro Tempore Ad Interim Principalis.

Senator Aikin then nominated Senator Raul Longoria of Edinburg as President Pro Tempore Ad Interim Secundus.

Senators Traeger, Truan, Parker, Snelson, Santiesteban, McKnight, Andujar, Williams, Meier, Hance, and Patman seconded the nomination.

The President appointed Senators Truan and Santiesteban as tellers.

The ballots were taken up and counted and the President announced that Senator Longoria had received 27 votes with one present and not voting for President Pro Tempore Ad Interim Secundus.

Senators McKnight, Santiesteban, Truan, Traeger, and Andujar were appointed to escort Senator Longoria to the President's Rostrum.

The President then presented Senator Longoria to the Senate as their President Pro Tempore Ad Interim Secundus.

Senator Longoria then addressed the Senate, expressing his appreciation for the Senate and the privilege of serving as a Member and President Pro Tempore.

**SENATE RESOLUTION 55**

Senator Aikin offered the following resolution:

WHEREAS, As the Senate of Texas prepares to adjourn sine die the First Called Session of the 65th Legislature, it is the desire of the members assembled this twenty-first day of July, 1977, to express once again a continuing confidence and appreciation for an outstanding contribution of devoted and dedicated service to the members of the Senate and the citizens of Texas; and

WHEREAS, The administration of the business of the Senate has been attended to with the utmost integrity, highest professional principles, and a cheerful spirit of cooperation by a most lovely lady; and

WHEREAS, Mrs. Betty King does now and shall during this interim continue to enjoy the fullest measure of support, confidence, trust and appreciation of the members of the Senate and of the Lieutenant Governor; now, therefore be it

RESOLVED, By the Senate of Texas, 65th Legislature, First Called Session, that this resolution be presented to Mrs. Betty King, Secretary of the Senate, as an expression of sincere gratitude for the manner in which she has discharged the administrative duties of the Senate, and as a further expression of the Senate's love and support for many more years of a continuing happy association with this most gracious and charming lady.

The resolution was read and was adopted.

### MOTION IN WRITING

Senator Aikin submitted the following Motion in Writing:

Mr. President:

I move that the President be authorized to appoint a committee of five (5) members to notify the House of Representatives that the Senate has completed its labors and is ready to adjourn sine die.

The Motion in Writing was read and was adopted.

The President announced the appointment of the following Committee to notify the House of Representatives: Senators Jones of Harris, Jones of Taylor, Farabee, Santiesteban and Mengden.

### MOTION IN WRITING

Senator Aikin submitted the following Motion in Writing:

Mr. President:

I move that the President be authorized to appoint a committee of five (5) members to notify the Governor that the Senate has completed its labors and is ready to adjourn sine die.

The Motion in Writing was read and was adopted.

The President announced the appointment of the following Committee to notify the Governor: Senators Patman, Kothmann, Doggett, Traeger and Snelson.

### AT EASE

The President announced the Senate at 5:07 o'clock p.m. would Stand At Ease Subject to Call of the Chair.

**IN LEGISLATIVE SESSION**

The Senate met at 5:36 o'clock p.m. and was called to order as In Legislative Session by the President.

**SENATE NOTIFIED**

A committee from the House of Representatives appeared at the Bar of the Senate and Mr. Caraway for the committee notified the Senate that the House was ready to adjourn sine die.

**HOUSE NOTIFIED**

The committee to notify the House of Representatives that the Senate was ready to adjourn sine die appeared at the Bar of the Senate and Senator Jones of Harris for the committee reported that the committee had performed the duty assigned to it.

The committee was discharged

**GOVERNOR NOTIFIED**

The committee to notify the Governor that the Senate was ready to adjourn sine die appeared at the Bar of the Senate and Senator Patman for the committee reported that the committee had performed the duty assigned to it.

The committee was discharged.

**COMMITTEES APPOINTED**

The following Communications from the Lieutenant Governor were read and filed with the Secretary of the Senate:

July 21, 1977

The Honorable Dolph Briscoe  
Governor of Texas

The Honorable Bill Clayton  
Speaker of the House of Representatives

The Honorable Mark White  
Secretary of State

The Honorable Betty King  
Secretary of the Senate

To the Legislative Committee on Public School Finance created by Senate Bill 1, 65th Legislature, First Called Session, I hereby appoint Senators Mauzy, Grant Jones, and Snelson.

Sincerely,

William P. Hobby

July 21, 1977

The Honorable Bill Clayton  
Speaker of the House of Representatives

The Honorable Mark White  
Secretary of State

The Honorable Harry Provence  
Chairman, Coordinating Board  
Texas College and University System

The Honorable Betty King  
Secretary of the Senate

To the study committee on faculty workload established by Article IV, Section 33(a), of the General Appropriations Act, I hereby appoint Senators Mauzy, Farabee, and Gene Jones.

Sincerely,

William P. Hobby

July 21, 1977

The Honorable Mark White  
Secretary of State

The Honorable Betty King  
Secretary of the Senate

To the interim committee on Texas beaches, created by SR 581, 65th RS, I hereby appoint the following eleven members:

Senators Longoria, Ogg, Schwartz, Parker, Truan, Gene Jones and Williams.

Bill Rapp, County Judge, Willacy County - elected county official in Gulf Coast area.

Janet Harte, Corpus Christi - private citizen with background in environmental affairs.

Gene Lucas, Galveston - private citizen with background in tourism development.

Malcolm Clark, Port Arthur - municipal official in Gulf Coast area.

Sincerely,

William P. Hobby

July 21, 1977

Honorable Bill Clayton  
Speaker of the House

Honorable Mark White  
Secretary of State

Honorable Betty King  
Secretary of Senate

To the Legislative Budget Board, I hereby appoint Senators Aikin, Farabee, Grant Jones and Moore.

To the Legislative Council, I hereby appoint Senators Creighton, Clower, Gene Jones, Snelson and Traeger.

Sincerely,

William P. Hobby

July 21, 1977

The Honorable Dolph Briscoe  
Governor of Texas

The Honorable Bill Clayton  
Speaker of the House of Representatives

The Honorable John Hill  
Attorney General of Texas

Gentlemen:

House Bill 1700, 65th Legislature RS, creates the Texas Election Code Revision Commission, to which each of us is required to make one or more appointments. I hereby appoint Senator Adams.

Sincerely,

William P. Hobby

July 21, 1977

The Honorable Bill Clayton  
Speaker of the House of Representatives

The Honorable Tom Keel  
Director, Legislative Budget Board

The Honorable Bob Johnson  
Executive Director, Legislative Council

The Honorable M. L. Brockett  
Commissioner of Education



Gentlemen:

Senate Concurrent Resolution 111, 65th Legislature RS, creates an interim committee on special education to which each of us is required to make an appointment. I hereby appoint Senator Snelson.

Sincerely,

William P. Hobby

### **BILLS AND RESOLUTIONS SIGNED**

The President announced the signing in the presence of the Senate after the caption had been read, the following enrolled bills and resolutions:

**H.B. 11**  
**H.C.R. 8**  
**H.C.R. 13**  
**H.C.R. 15**  
**H.C.R. 16**  
**H.C.R. 18**  
**H.C.R. 20**  
**H.C.R. 21**  
**S.C.R. 9**  
**S.C.R. 11**  
**S.C.R. 13**  
**S.C.R. 14**  
**S.C.R. 15**  
**S.C.R. 16**  
**S.B. 7**  
**S.B. 9**

### **MEMORIAL RESOLUTIONS**

**H.C.R. 19** (Aikin) Memorial resolution for the Honorable Renne Allred, Jr.

**S.R. 49** - by Aikin: Memorial resolution for Mrs. Faye Pope Boyd.

**S.R. 51** - by Doggett, Farabee: Memorial resolution for Fania Kruger.

**S.R. 61** - by Adams: Memorial resolution for Terry Lee Plake.

### **CONGRATULATORY RESOLUTIONS**

**S.R. 46** - by Clower: Extending congratulations to Mr. and Mrs. Fred Agnich.

**S.R. 47** - by Doggett: Extending congratulations to Toni Oates.

**S.R. 48** - by Doggett: Extending congratulations to Pages of the First Called Session of the 65th Legislature.

**S.R. 50** - by Williams: Extending congratulations to Nick Peter Poulos.

**S.R. 54** - by Brooks: Extending welcome to Niki Cannon.

**S.R. 56** - by Schwartz: Extending congratulations to ELISSA Project.

**S.R. 57** - by Schwartz: Extending congratulations to Gulf Association Water Polo Club.

**S.R. 58** - by Schwartz: Extending welcome to Evelyn Levy.

**S.R. 59** - by Schwartz: Extending welcome to Mr. and Mrs. Sheldon Schrieber.

**S.R. 60** - by Schwartz: Extending congratulations to Lone Star Historical Drama Association.

**S.R. 64** - by Adams: Extending congratulations to Mr. and Mrs. Harrison Cole.

**S.R. 62** - by Adams: Extending get well wishes to Don Jones.

**S.R. 63** - by Adams: Extending congratulations to Employees of Senate Post Office.

#### **ADJOURNMENT SINE DIE**

The President announced that the hour for final adjournment of the First Called Session of the Sixty-Fifth Legislature had arrived.

Senator Hance moved that the Senate stand adjourned sine die.

The motion prevailed and the President declared the First Called Session of the Sixty-fifth Legislature adjourned sine die at 6:00 o'clock p.m.

**APPENDIX**

**Sent to Governor**

(July 21, 1977)

**S.C.R. 10**

**S.B. 6**

**S.B. 11**

(July 22, 1977)

**S.B. 9**

**S.C.R. 9**

**S.C.R. 11**

**S.C.R. 13**

**S.C.R. 14**

**S.C.R. 15**

**S.C.R. 16**

(July 25, 1977)

**S.B. 7**

**Sent to Comptroller**

(July 22, 1977)

**S.B. 7**

**In Memory****of****Tom C. Clark**

Senator Doggett offered the following resolution:

(Senate Resolution 52)

WHEREAS, With the death on June 13, 1977, of former Supreme Court Justice Tom C. Clark, the State of Texas lost one of its most distinguished jurists and exemplary citizens; Justice Clark, who was 77 at the time of his death, served on the United States Supreme Court for 18 years and wrote a number of outstanding and significant opinions during his tenure on the bench; and

WHEREAS, A native of Dallas, this remarkable gentleman was graduated from The University of Texas at Austin in 1921 and completed law school a year later; while a student, Tom Clark was active in campus organizations, among them the Texas Student Publications Board, the debate society, the Student Assembly, and the speakers club, which he served as president; and

WHEREAS, Upon graduation, Justice Clark returned to Dallas to become one of the city's most prominent attorneys; he served as Dallas civil district attorney until 1937, when he joined the Justice Department; and

WHEREAS, In 1945, President Harry Truman appointed this notable Texan Attorney General of the United States and Attorney General Clark soon became a most respected and well-loved member of the Justice Department and the entire legal profession; and

WHEREAS, Justice Clark began his illustrious tenure on the Supreme Court in 1949 and exemplified the essential balance between a commitment to law enforcement and a dedication to human liberties; some of the decisions for which he was best known were the banning of the Lord's Prayer and Bible reading in public schools, the illegality of using evidence obtained by unconstitutional searches and seizures as inadmissible in state and federal trials, and the decision to strike down certain movie censorship laws; and

WHEREAS, When his son, Ramsey Clark, was appointed Attorney General in 1967, Tom Clark retired from the Supreme Court to avoid any charges of a conflict of interest; a devoted and skilled jurist, Mr. Clark became a leading spokesman for judicial improvement and administration and served as a visiting judge in every one of the 11 federal circuits, the only man ever to achieve this; and

WHEREAS, In 1962, The University of Texas Ex-Students Association honored this most productive and esteemed gentleman as the Distinguished Alumnus of the year and a 1967 issue of the Texas Law Review was dedicated to him as an expression of appreciation for his lasting influence in the field of law and the administration of justice; and

WHEREAS, Tom Clark, the only Texan to have served on the United States Supreme Court, will be long remembered throughout this land for his tireless devotion to the law and his deep and abiding love for humanity; the Reverend David L. Zacharias eulogized Justice Clark as "a man who could walk with kings and keep the common touch"; he will be deeply missed; now, therefore, be it

RESOLVED, That the Senate of the 65th Legislature, 1st Called Session, honor the memory of one of this state's most respected and well-loved citizens, former Supreme Court Justice Tom Clark, one who served his nation with integrity and his fellowman with compassion, and extend deepest sympathy to the members of his family on their great loss; and, be it further

**RESOLVED**, That official copies of this resolution be prepared for the members of his immediate family, and that when the Texas Senate adjourns this day, it do so in memory of former Supreme Court Justice Tom Clark.

**DOGGETT  
BRAECKLEIN**

The resolution was read.

On motion of Senator Doggett and by unanimous consent, the resolution was considered immediately and was adopted by a rising vote of the Senate.

On motion of Senator Braecklein and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereto.